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IN THE UNITED STATES DISTRICT COURT OF THE
VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN
THOMAS F. FRIEDBERG and SARAH L. BUNGE,)
Plaintiffs,) CIVIL ACTION NO.
vs.) 3:19-cv-0053
DAYBREAK, INC. d/b/a HUBER & ASSOCIATES,)
Defendant.)
_____)

DEPOSITION OF
THOMAS F. FRIEDBERG
March 17, 2025
10:15 a.m.

REPORTED BY: Gina Castro, CSR, RPR
Arizona CR No. 50989

Exhibit "B"

VERITEXT
290 West Mount Pleasant Avenue, Suite 3200
Livingston, New Jersey 07039
800-567-8658

1 The deposition of THOMAS F. FRIEDBERG, was taken
2 on March 17, 2025 from 10:15 a.m. to 4:07 p.m. at
3 Regus - Downtown Tucson, One South Church Avenue,
4 Suite 1200, Tucson, Arizona 85701 before Gina Castro,
5 Certified Shorthand Reporter for the State of Arizona
6 and Registered Professional Reporter.
7

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1 THOMAS F. FRIEDBERG,
2 having been first duly sworn,
3 was examined and testified as follows:

4 EXAMINATION

5 BY MR. COSBY:

6 Q Good morning. Please state your name.

7 A Good morning. Tom or Thomas Friedberg.

8 Q All right. I'm going to dispense with the rules
9 for a deposition today. I'm sure you're comfortable
10 there.

11 All right. As you know we're here to take your
12 deposition regarding a property in the Virgin Islands and
13 the lawsuit relating to that mainly due to roof issues;
14 is that correct?

15 A Yes.

16 Q Okay. Is there any reason you can't give
17 truthful testimony today such as you're on medications or
18 sick or anything like that?

19 A No.

20 Q Okay. All right. What is your profession?

21 A I'm an attorney.

22 Q All right. And of course you're representing
23 yourself and your wife in this case?

24 A Yes.

25 Q All right. And where's your practice?

1 A Primarily -- primarily in San Diego, California.

2 Q And tell me about your practice. What kind of
3 practice is it?

4 A Civil -- civil litigation, personal injury,
5 medical negligence, maritime, products liability.

6 Q How long have you been practicing in the
7 San Diego area?

8 A Since 1983.

9 Q Is that when you were admitted?

10 A Yes.

11 Q All right. And you do have an office in the
12 Virgin Islands and also practice some there; is that
13 correct?

14 A Yes.

15 Q Okay. Are there any other states that you
16 maintain an office?

17 A No.

18 Q And your Virgin Islands practice, is that also
19 the same practice areas?

20 A Yes.

21 Q Did you open a practice or start handling cases
22 in the Virgin Islands before purchasing this property?

23 A No.

24 Q Okay. And when I say this property, tell us the
25 address -- the property at issue.

1 A The physical address is 168 Chocolate Hole,
2 St. John, Virgin Islands. I think it's 00830 or 00831, I
3 just don't recall.

4 Q Okay. Is there a -- you said the physical
5 address.

6 Is there some other address associated with it?

7 A Well, we have a mailing address for the
8 office --

9 Q Okay.

10 A -- there because we don't receive mail.

11 Q At --

12 A At the house --

13 Q Okay.

14 A -- in Chocolate Hole.

15 Q Okay. So which came first, you started handling
16 some cases down there or you purchased Chocolate Hole?

17 A We purchased the home --

18 Q Okay.

19 A -- or excuse me -- the property.

20 Q Okay. And when you purchased it, was there any
21 structures on it?

22 A Yes. There was a hurricane blowdown from
23 Marilyn.

24 Q Hurricane Marilyn?

25 A Yes.

1 Q Do you recall what year Hurricane Marilyn hit?

2 A I think it was 1995.

3 Q Was anything left as far as structures on the
4 property after that hurricane?

5 A Yes.

6 Q Okay. Give me a description.

7 A There was -- the footprint for the gatehouse was
8 there. There were cisterns, and there was a storage room
9 between the cisterns.

10 Q And when you say the gatehouse, what does that
11 mean?

12 A Well, there's --

13 Q Can you describe it for me?

14 A Sure. We built a two-bedroom, two-story,
15 two-and-a-half bath home on the footprint. It was
16 partially expanded, but that -- we called that building
17 the gatehouse.

18 Q Fast forwarding, how many buildings are
19 currently on the property?

20 A I think five.

21 Q Okay. And can you describe them or tell me
22 how -- what you call -- refer to them as?

23 A Sure. There's the gatehouse, there's the
24 garage, there's the main house, there's a guesthouse, and
25 there's a beach pavilion. And also a dining pavilion. So

1 I take -- there's six, actually.

2 Q All right. And is the gatehouse currently a
3 two-bedroom, two-and-a-half bath?

4 A Yes.

5 Q How many -- two-car garage?

6 A Yes.

7 Q Describe the main house in terms of bed, bath,
8 and square footage.

9 A The main house, as you enter there's a great
10 room, and there is the master bedroom on the main level.

11 Q How many stories?

12 A It goes down to ground. It's really two
13 stories, but with a cistern, you could --

14 Q Right.

15 A -- argue it's three.

16 Q Okay. And how many -- how many bedrooms total?

17 A Well, on the main level there's one master
18 bedroom. On the lower level there's another similar --
19 it's not really a master bedroom, but it's essentially
20 the -- the same. So really there are two bedrooms in
21 the -- the main house.

22 Q Do you know the square footage of the main
23 house?

24 A Not off the top of my head.

25 Q How many baths?

1 A I think there are four.

2 Q What else is there? I'm sure there's a kitchen?

3 A There's a kitchen.

4 Q Any other rooms that are used for other purposes
5 like an office or something like that?

6 A There's a library. This is on the -- the main
7 level. I think that's about it.

8 Q Okay. How about the guesthouse? How many beds
9 and baths?

10 A The guesthouse is two stories, and there's a
11 bedroom/studio on each floor.

12 Q How many bathrooms?

13 A Two.

14 Q And the beach pavilion, describe that.

15 A There is an open pavilion on the upper level.
16 And on the lower level there's a bedroom with a small
17 kitchenette.

18 Q Is that where guests would stay if you had
19 guests there?

20 A Yes, guests have stayed there.

21 Q Okay. And then the dining pavilion, what is
22 that?

23 A That's just open.

24 Q Okay.

25 A It's a -- on an octagon that's built -- butts up

1 to the pool.

2 Q And is it as its name suggests, where you dine?

3 A The -- the intent is, yes, it will be a formal
4 dining room.

5 Q Okay. Now, are all of these different rooms or
6 structures we just went over currently functional?

7 A Yes, they're functional.

8 Q Okay. Are any of them -- are any of them not in
9 complete -- strike that.

10 Have any of them -- are any of them still in the
11 process of any construction?

12 A Yeah. The -- the main house still has some work
13 to be done.

14 Q Tell me about that. What kind of work to be
15 done?

16 A Stonework, tile work, finishes, cabinets, things
17 like that.

18 Q Is that from the initial construction that you
19 all began on the project? In other words, was that ever
20 finished?

21 A I'm not sure I understand your question.

22 Q Yeah. You said there still has to be some stone
23 and tile work along with cabinetwork.

24 Is that to replace cabinets that existed before
25 or install cabinets that have never existed?

1 A The latter.

2 Q Okay. And is -- is there a timeline to that
3 project?

4 A Soon.

5 Q Okay. I mean, is it ongoing work right now?

6 A Yes.

7 Q Okay. And who's there currently working at the
8 property?

9 A Currently I have maintenance individuals. We
10 don't have a builder.

11 Q Is the plan to get a builder involved?

12 A Yes.

13 Q To do the stone, tile, and cabinetwork?

14 A Yes.

15 Q Anything else?

16 A Whatever else needs to be done.

17 Q Has it been determined by any builder as to what
18 needs to be done?

19 A Somewhat, yes and no. I mean, I've met with a
20 builder. We've have preliminary discussions. Nothing to
21 pen and paper.

22 Q So no estimates or quotes or anything like that?

23 A Probably it'll be time and materials.

24 Q Who have you had those discussions with?

25 A Blue Bay Construction. I think that's their

1 name -- or Build- -- Blue Bay Builders.

2 Q Where are they located?

3 A St. John.

4 Q And who is it that you've spoken to from

5 Blue Bay?

6 A Lanny.

7 Q And is Lanny a local?

8 A Well, he lives on the island, yeah.

9 Q Okay.

10 A He's originally from Texas.

11 Q Okay. Anyone else you've spoken with from that
12 company?

13 A No.

14 Q And when's the last time Lanny has been out to
15 the Chocolate Hole address?

16 A Probably a few months ago.

17 Q How many times has he been there?

18 A Oh, half a dozen, maybe. Could be more.

19 Q Any other builders that you've spoken to about
20 this current work that needs to be done?

21 A No.

22 Q Who are the maintenance individuals that you
23 referred to earlier?

24 A Patti and Joseph.

25 Q What's Patty's last name?

1 A Matejka.

2 Q Can you spell that?

3 A I'll probably be off. M-j-a-e-c-k-a [sic], I
4 believe.

5 Q Is this a he or a she?

6 A She.

7 Q And Joseph, what's his last name?

8 A Oh, gosh, I wish I knew.

9 Q Okay. Do they work together?

10 A Yes.

11 Q Is there a company?

12 A No.

13 Q And what do they do?

14 A Patti takes care of maintenance and cleaning and
15 hauling in repair people as -- as needed and ensuring that
16 the service people such as pool people -- you know, show
17 up regularly and things like that. Joseph does the
18 outdoor work, whatever needs to be done.

19 Q Landscape-type work?

20 A Landscape, irrigation, checking on the property,
21 walking the property.

22 Q Is there a sprinkler system?

23 A Yes.

24 Q How long have -- let me break it down.

25 Patti, how long has she been working at the

1 property?

2 A Patti has been providing services to us for a
3 very long time.

4 Q Okay.

5 A Over 10 years.

6 Q Okay. That same type work you just mentioned?

7 A Yes. She has done more the last year. And she
8 also does more over the summers.

9 Q Why is that?

10 A Because Chris no longer lives in St. John.

11 Q Okay. And Chris, tell me who he is.

12 A Chris Bunge is Sarah's older brother who stayed
13 on after construction and took care of maintaining the
14 property for us and anything else that needed to be done.

15 Q Okay. And when did Chris leave?

16 A May of 2024.

17 Q Where did he move?

18 A I'm sorry?

19 Q Where did he move?

20 A To Minnesota.

21 Q Okay. Prior to him moving to Minnesota in
22 May -- approximately May of 2024 was he -- strike that.

23 How often was he in the Virgin Islands prior to
24 that?

25 A He lived there.

1 Q Okay. Full-time?

2 A Full-time.

3 Q And where did he live in the Virgin Islands?

4 A In Gifft Hill, which is an area of the island.

5 Q How far was that from Chocolate Hole?

6 A Oh, I don't know. Maybe a mile,
7 mile-and-a-half.

8 Q Okay. Was anyone living there with Chris?

9 A No.

10 Q And what is Chris' background? Is he a
11 contractor?

12 A Chris, I believe, was a general contractor in
13 Minnesota. And also did roofing as well in Minnesota.

14 Q Do you think he was licensed in Minnesota?

15 A He may have been, I'm not sure.

16 Q Okay. Did he hold any professional licenses in
17 the Virgin Islands?

18 A No.

19 Q Did he work when he lived there?

20 A Lived where?

21 Q In Virgin -- in the Virgin Islands.

22 A Yes.

23 Q And what did he do for work?

24 A Chris joined the construction crew and worked in
25 building the home for a number of years. And then took

1 over and basically did project maintenance and that -- you
2 know, man- -- management and taking care of the property.

3 Q When you say he joined the construction crew,
4 you mean regarding Chocolate Hole --

5 A Yes.

6 Q -- or Chocolate Hole address?

7 A Yes.

8 Q Were there any other properties he was working
9 on in the Virgin Islands, to your knowledge?

10 A At times he did.

11 Q Okay. At the time he was -- he joined the
12 construction crew -- crew for your property at
13 Chocolate Hole was he working on any -- any other
14 properties or was it solely that one?

15 A I believe it was just our property.

16 Q Okay. And can you give me the timeframe that he
17 worked at Chocolate Hole? Not -- not as maintenance, but
18 when you said he joined the construction crew.

19 A Sure. I believe Chris came down in 2000 or 2001
20 and stayed there regularly. He left for a year or two and
21 then came back. And he would normally go back to
22 Minnesota over the summers.

23 Q When he left for a year or two was that to go to
24 Minnesota?

25 A Yes.

1 Q How old's Chris, approximately?

2 A Seventy.

3 Q When you said Chris joined the construction crew
4 and you were -- you meant pertaining to Chocolate Hole,
5 what construction crew was that that he joined?

6 A The crew was being run by a gentleman known as
7 Kiwi. Kiwi's full name is Phil Holford. H-o-l-f-o-r-d.

8 Q Was there a name to Phil's company?

9 A Yeah, there was. I think it was Evergreen or
10 Ever something. It's a New Zealand -- it was Kiwi,
11 New Zealand -- Sarah will probably know the specific name.

12 Q Okay. And is that the only construction crew
13 related to Chocolate Hole that Chris worked with at
14 Chocolate Hole?

15 A No.

16 Q What others did he work with?

17 A We were the owner/builders after Kiwi left, and
18 we brought in a gentleman by the name of Andy Hardesty.
19 And Andy ran the crew.

20 Q When was it that Kiwi left the job?

21 A These are my best estimates...

22 Q Yeah. All of this is best estimates.

23 A Yeah, I understand.

24 Kiwi was there about 18 months-ish or so.

25 Q Okay. I'm just trying to understand.

1 What years are we talking?

2 A 2001 to 2002 to 2003-ish.

3 Q Okay.

4 A Or 2004. Somewhere along those lines.

5 Q And Andy came in when? Do you remember that
6 date?

7 A About six months after Kiwi left.

8 Q Okay. What's the name of Andy's company?

9 A I don't think Andy has a company.

10 Q And was Andy -- where did he live at the time?
11 Was he living on the island?

12 A Yes.

13 Q Where's he from originally?

14 A I'm not sure.

15 Q Okay. Do you know what his nationality is?

16 A He's -- he's a U.S. --

17 Q Okay.

18 A -- American -- U.S. citizen.

19 Q Is he a licensed general contractor?

20 A At the time I don't believe he is. I don't know
21 what his status is now.

22 Q Do you know where he was licensed at the time he
23 was working at your property?

24 A I -- I don't know if he was licensed.

25 Q Okay. So Chris worked with Phil Holford and

1 Kiwi and Andy.

2 Is there anyone else that Chris worked with on
3 the property as far as construction crews?

4 A Well, Andy pretty much ran the crew. There were
5 other individuals -- Chris worked for us. I'll just leave
6 it at that. And he did certain work for those other
7 individuals as well.

8 Q Okay. So if I understand you correctly, when
9 Chris worked on the property he would get paid directly
10 by you all; is that correct?

11 A He was paid initially by Kiwi while Kiwi was
12 still there.

13 Q Right.

14 A And thereafter we paid him directly.

15 Q Okay. You said Chris had some experience in
16 roofing.

17 Do you know what kind of roofing he had
18 experience in while in Minnesota?

19 A Not really.

20 Q Do you have any understanding as far as Chris'
21 work in Minnesota as to how much of it was residential
22 versus commercial?

23 A I understand Chris worked on some grain
24 elevators. I would say that's commercial.

25 Q Okay.

1 A I don't know if he did any other commercial
2 work. I believe he also did residential work as well.
3 But I really don't know the full nature, scope, and extent
4 of it.

5 Q Okay. With regard to his residential work --
6 and you may not know the answer to this, but I want to
7 ask it anyway -- do you know if he had any particular
8 specializations? In other words, he did mostly X, Y,
9 or Z or he did everything from the ground up in the home
10 building area?

11 A I really don't know.

12 Q Okay. When Chris was working, I guess,
13 alongside Andy, that's when he was paid directly by you
14 all?

15 A Yes.

16 Q Okay. So he -- Andy did not pay him; is that
17 correct?

18 A Correct.

19 Q Okay. And is there anyone else that Chris
20 worked with as far as construction crews on the property?

21 A Well, we had other individuals that were there.
22 I wouldn't go so far as to say they were -- they were
23 management versus workers, but --

24 Q Okay.

25 A -- a lot of the laborers were local

1 West Indians, and then there were other individuals from
2 the states that had construction experience that were on
3 the crew. And they all worked directly for us.

4 Q As far as Andy's work, I know you said it was
5 approximately six months after Kiwi left.

6 How long was Andy on the project?

7 A 2009, 2010-ish.

8 Q And then did somebody take over the project in
9 '09 or '10?

10 A We -- Andy left the island, and the project -- I
11 don't know if anyone took over, per se, but we had an
12 individual by the name of Jonathan Doran that was there
13 while Andy was there. And --

14 Q Spell the last name.

15 A D-o-r-a-n.

16 And there was a crew, about four or five
17 West Indians, that had been there since the inception and
18 stayed on with Chris managing them, for lack of a better
19 word.

20 Q Jonathan Doran, was he -- who did he work for?

21 A He worked for us.

22 Q Was he just an independent --

23 A Yes.

24 Q -- or did he work for a company?

25 A He worked -- no, he didn't have a company at

1 that time. At least to my knowledge.

2 Q So did he stay on after Andy left?

3 A Yes.

4 Q But he worked at the same time as Andy as well?

5 A Yes.

6 Q Okay. How long total, if you can approximate,
7 was Jonathan Doran on the project?

8 A Till roughly 2009, 2010. It could have been a
9 year or two later after that.

10 Q Did someone take over at that point?

11 A Well, we were somewhat in charge. Chris was --
12 stayed on with a crew of four or five --

13 Q Okay.

14 A -- West Indians.

15 Q Other than the four or five West Indians -- and
16 those are laborers?

17 A Some of them had greater skills than laborers --

18 Q Okay.

19 A -- but -- so I'm not sure. You say laborers.
20 I -- I don't really know what you mean.

21 Q Okay. I guess I mean -- you know, a lower level
22 of construction personnel versus someone calling the
23 shots.

24 A Well, the individual West Indians were -- a lot
25 of them were stone masons, plaster people --

1 Q Okay.

2 A -- things like that. They called their own
3 shots.

4 Q Okay. Was there someone that oversaw their
5 work?

6 A Well -- I mean, Chris was there, and then we
7 would be there.

8 Q Okay. When Jonathan left, other than Chris, did
9 anyone else oversee the work or did -- did anyone else
10 get involved other than the four to five West Indians you
11 referred to?

12 A Yeah. We had, I think, three individual
13 carpenters, framers, and finishers that continued and --
14 and stayed on and did quite a bit of work.

15 Q And who -- what were their names?

16 A There was Darren. And I really don't remember
17 the other two. I can picture their faces, I just don't
18 remember their names.

19 Q Okay. Do you know Darren's last name?

20 A It starts with a B. I don't really -- Sarah may
21 recall, I really don't.

22 Q Did the three carpenters work for the same
23 company?

24 A They were all independent.

25 Q Okay. And were they living on the island?

1 A Yes.

2 Q Do you know the names of any of the four to five
3 West Indians working there?

4 A There was Thomas. And I'm picturing them, I'm
5 just somewhat --

6 Q Yeah.

7 A -- stumbling at -- at their names. It's not --
8 I can't think right now of their names.

9 Q Out of the four to five West Indians, was any
10 one of them either in charge or appear to be calling the
11 shots or -- as to the others?

12 A Garnett was his name, and, yes, he was the one
13 that was somewhat leading the -- the plasterers and the
14 stone folks. And they also did concrete work.

15 Q Garnett was the leader?

16 A Gar- -- Garnett seemed to be the one with more
17 experience.

18 Q Okay.

19 A And he was the one I would communicate with.

20 Q Okay. He spoke English?

21 A They call it English.

22 Q Okay.

23 A I don't -- you've been down in the islands.

24 Q Yeah.

25 A It's hard to understand sometimes, at least for

1 me --

2 Q Right.

3 A -- but they all are conversing in English.

4 Q Okay. Do you speak any other languages?

5 A Not fluently.

6 Q Okay. Any others that you recall other than
7 Thomas or Gar- -- Garnett? Garnet?

8 A No.

9 Q Do you know the last names of either of those?

10 A Thomas was Guiste, G-u-i-s-t-e. And I -- I'm
11 not sure if that's the correct spelling.

12 Q Okay. And that -- and you referenced four to
13 five West Indians.

14 Was that crew basically the same over the period
15 of time they worked there or are you -- are people coming
16 in and out?

17 A Pretty much the same.

18 Q Okay. Why did Kiwi leave the project?

19 A He had an 18-month contract, and he left when
20 the contract was up.

21 Q Was that contract with you?

22 A Yes.

23 Q Was there any discussion about extending the
24 contract?

25 A Yes.

1 Q And who -- who requested that? Was it you
2 wanted him to continue on or he wanted to continue on?

3 A He wanted to continue on.

4 Q Okay. And did you -- why didn't he continue on?

5 A We wouldn't agree to his terms.

6 Q Okay. And what were his terms?

7 A He wanted significantly more money.

8 Q Where was the construction project in terms of
9 its completion when he left?

10 A The upper buildings were done, the gatehouse,
11 the garage studio, and the beach bar was done. And the
12 foundation was poured for the main house. And the cistern
13 walls had been formed but not poured.

14 Q The cistern, what is that used for?

15 A Storing water.

16 Q I figured, but I didn't know if it was just
17 called that or you used it from something else.

18 A There's no municipal water there.

19 Q Okay.

20 A The water that is used is collected on the roof
21 and then stored in an underground cistern.

22 Q One cistern?

23 A We have multiple cisterns on the property.

24 Q Okay. How many?

25 A There's two in the gatehouse. There is either

1 one or two in the guesthouse. And the main cisterns are
2 in the main building. And there's also a cistern off
3 the -- there's another bedroom, we call it the waterfall
4 room, and there's a -- a cistern off of that as well.

5 Q Aside from that being the water source, is there
6 plenty of water or does it vary year to year?

7 A We've been fortunate that we don't have to buy
8 water.

9 Q Uh-huh. Okay. And it looks like a tropical
10 area, but I don't follow how much rainfall they get. I
11 assume like south Florida they get a lot of summer
12 showers.

13 Is that generally what happens?

14 A There is a rainy -- there is a raining -- rainy
15 season.

16 Q Okay. What's the rainy season?

17 A I wish I could tell you off the top of my head.

18 Q Okay. But there is some period that's rainier
19 than others?

20 A Yeah. Usually some passing shower on a regular
21 basis, whether it drops measurable rain or not. But there
22 are also dry periods of time when there's no rain.

23 Q Right. Okay. Have you ever had periods where
24 the water level dropped to a -- to a concerning level?

25 A Well, we've purchased water.

1 Q Okay.

2 A I -- I don't know if it's concerning or not --

3 Q Yeah.

4 A -- but when it reaches a certain level --

5 Q Yeah.

6 A -- there are water trucks that are readily
7 available. And you just call them up, and they're there
8 usually within a day or so.

9 Q And where do they obtain the water?

10 A There is -- there are water -- there's a place
11 where they fill up in Cruz Bay.

12 Q Okay.

13 A And I don't know if it's from desal or -- or it
14 comes over from St. Thomas. I -- I just don't know,
15 but --

16 Q Okay.

17 A -- there's big tanks in Cruz Bay. They drive
18 under there, there's a pipe that comes out, and they fill
19 up these trucks that I think hold 3,000 or 5,000 gallons.

20 Q Okay. Why did Andy leave the project?

21 A His wife wanted to leave the island.

22 Q Do you know why?

23 A She wanted to practice oriental medicine in
24 northern California.

25 Q Was there a contract with Andy?

1 A No.

2 Q Okay. Was there any agreed upon period of time
3 that he was going to work there?

4 A I don't think anything was ever written down.

5 Q Yeah.

6 A We had hoped he'd stay as long as he can.

7 Q Right. Was he given money to stay on through
8 X phases of the project?

9 A He billed us on a weekly basis.

10 Q Okay. So did he leave on good terms?

11 A Yes.

12 Q Where does Andy live now?

13 A I don't know.

14 Q Is it your understanding that when they left the
15 island they did move to California?

16 A Yes.

17 Q Okay. How do you spell his last name?

18 A I think it's H-a-r-d-e-s-t-y-, but I could be --
19 you know, I'm not sure if that's the spelling.

20 Q So it's Hardesty?

21 A I believe so.

22 Q And then Jonathan, why did he leave the project?

23 A We were, at that time, taking a little break.
24 And we didn't necessarily want to have the weekly payroll
25 that we were incurring.

1 Q Do you recall the amount of the weekly payroll
2 you were incurring when you took a break?

3 A No.

4 Q Prior to this Chocolate Hole property had you
5 ever built in the Virgin Islands before?

6 A No.

7 Q Did you have any understanding, either before
8 beginning the building or along the way, what the general
9 timeframe was to build something in the Virgin Islands?

10 A Well, there's what people will tell you and what
11 it really takes.

12 Q Right. What were you told, and what did it
13 really take?

14 A Couple years, maybe.

15 Q Couple years is what you were told?

16 A Couple years, yes. But we spent a
17 year-and-a-half in excavation before those couple years
18 really started.

19 Q Okay. And I don't know that I asked this, but
20 when did you begin construction at the property?

21 A 2000 or 2001.

22 Q And was there a time where the construction was
23 completed?

24 A Certain portions are completed.

25 Q Right.

1 A Everything is not 100 percent.

2 Q Right. Okay. So to-date there was never a time
3 where everything was completed; is that correct?

4 A To-date there are still matters that we would
5 like to have done. So the answer is it's not to our --
6 for our purposes, it's not 100 percent complete.

7 Q Yeah. And I'm trying to differentiate
8 between -- anyone who owns a house, there's a list that
9 never seems to end -- at least at my house. So -- you
10 know, maintenance issues or new plans, new things you
11 wanted to do that you didn't plan on doing originally.

12 So was there a plan at the outset as to how many
13 buildings you wanted to have and that kind of thing?

14 A Yes.

15 Q And is that the six buildings we talked about?

16 A Yes.

17 Q Okay. And those six buildings -- help me out.
18 Which ones remain unfinished from the original plans?
19 And by plans I mean you and your wife's plans, not
20 architectural plans.

21 A I've already described the main house, what
22 needs to be done.

23 Q Okay. Other than the main house, the other
24 buildings are completed?

25 A Yeah. I mean, the guesthouse doesn't have stone

1 floors in yet. It's a concrete floor --

2 Q Okay.

3 A -- you know, things like that.

4 Q Okay. And was the idea that aside from the
5 availability of workers and things like that you would
6 kind of build or complete areas of the project as we go
7 or was the hope that we'd finish the whole thing in two
8 years?

9 A Well, I don't think two years was ever -- you
10 know, realistic.

11 Q Right.

12 A But --

13 Q Or four or five years?

14 A -- the plan was -- plan was to build until it
15 was done.

16 Q Okay. How long of a break did you take when you
17 said, we didn't want the weekly payroll?

18 So I assume that's when Jonathan stopped working
19 on the project?

20 A Yes.

21 Q Did he ever resume?

22 A No.

23 Q Okay. How long did that break become?

24 A Well, we still had Chris and the four or five
25 other individuals and Darren. And the other two finish

1 carpenters or framers that continued on.

2 Q Okay. So Jonathan took a break, others did not?

3 A Correct.

4 Q Okay. And did Jonathan ever come back?

5 A No. Not to work for us.

6 Q Okay. All right. Were there periods of time
7 when there was no work being done at all?

8 A There's always somebody there. So the answer to
9 your question is no. There was not a time when nothing
10 was happening.

11 Q Okay. And I don't mean maintenance like by the
12 current maintenance people, but actual construction work
13 being performed.

14 A There was construction work being performed.

15 Q At all times?

16 A Yes.

17 Q Okay. And that continues currently? I know you
18 said Lanny was there a few months ago. So is there
19 currently construction work going on?

20 A We have a few items that are being done, but we
21 don't have big crews there doing matters currently.

22 Q Okay. And what are the current items being
23 done?

24 A You know, certain aspects of taking care of the
25 property, which -- you know, maybe I should rephrase that.

1 I'd say there's not necessarily, quote, construction, as
2 we speak right now.

3 Q Uh-huh.

4 A Whether it's maintenance or repair, those are
5 ongoing continuously. But it's been probably a couple
6 months before -- well, since there was someone actually
7 last there doing construction work.

8 Q The lawsuit that we're here about that's pending
9 in Federal Court in the Virgin Islands revolves around
10 the roof of the main house; is that correct?

11 A Yes.

12 Q Okay. And is that the only structure that's
13 involved in this litigation -- the roof of the
14 main house?

15 A Yes.

16 Q What was the subject of the Superior Court
17 litigation?

18 A It started out where Barry Huber or Daybreak
19 filed a lawsuit or mechanic's lien against us.

20 Q And let me separate that because you raised a
21 good point.

22 A counterclaim was filed?

23 A We filed the counterclaim.

24 Q Correct. So what was the subject of the
25 counterclaim?

1 A There were leaks in a lot of the upper buildings
2 and -- yeah. There were leaks. That's --

3 Q Roof leaks?

4 A Roof leaks.

5 Q And which upper buildings were experiencing roof
6 leaks --

7 A Predominately --

8 Q -- re- -- related to the Superior Court
9 litigation?

10 A Predominately the gatehouse.

11 Q But include all it, not just what's
12 predominately.

13 A The upper buildings were the -- really the
14 focus. There were leaks in the studio garage building as
15 well.

16 Q Were there leaks in the main house at any time
17 during the Superior Court litigation or leading up to it?

18 A I think there were some leaks.

19 Q Was any portion of the main house part of that
20 Superior Court litigation?

21 A The court issued a ruling saying that the
22 Superior Court litigation was limited to the -- the
23 gatehouse and to the garage studio, excluding any other
24 portion of the property.

25 Q Was that pursuant to a motion?

1 A I'm not sure if it was or wasn't.

2 Q I'm just trying to understand.

3 Why would the court make that type of a ruling?

4 A That's a good question.

5 Q Okay.

6 A I -- I'm not sure why the judge did what they
7 did.

8 Q Okay.

9 A We had one judge, Judge Christensen, and then he
10 retired and another judge came on. And original cost to
11 repair just dealt with the upper buildings, and somehow
12 the -- the new judge limited it to the upper buildings.

13 Q Did the mechanic's lien -- basically Barry's
14 suit against you was for money; is that correct?

15 A Yes.

16 Q Saying that he performed work and wasn't paid
17 for certain work he performed?

18 A That was his allegation.

19 Q Right. And did any of that work that he claimed
20 involve the main house roof?

21 A I don't think so. But I'm -- again, this was
22 many years ago.

23 Q Regardless of what the judge ruled regarding
24 what the parameters were for that Superior Court case,
25 were there allegations at any time within your

1 counterclaims that dealt with the main -- main house?

2 A There were some issues on the main house.

3 Q What were those?

4 A Probably don't have the correct terms of art --

5 Q That's all right.

6 A -- but it dealt with how the flashings were
7 where the metal met the stonework. There were issues
8 referable to -- the seams didn't seem to be straight.
9 They were crooked. It just see- -- appeared to be sloppy.
10 I think those were the main issues.

11 Q You represented yourself in the Superior Court
12 case as well?

13 A Yes.

14 Q And the counterclaimants were who? Just you?
15 You and your wife?

16 A Just Sarah and I, yes.

17 Q Okay. Barry's suit against you also included
18 your law firm; is that correct?

19 A Yes.

20 Q Okay. Was that -- was the law firm a continual
21 defendant in that or did that get resolved at some point?
22 I know the whole case resolved, but --

23 A Yeah. No --

24 Q -- was there a motion to dismiss the law firm
25 or...?

1 A No.

2 Q Okay. Do you need to take a break?

3 A No.

4 Q Okay. Let me know if you do at any point. I
5 tend to offer it, but I also tend to lose track of time.
6 So...

7 A I'll let you know if I need to take a break.

8 Q When -- when did you first notice any issues
9 with work performed by Barry's company?

10 A Right after they left the island.

11 Q Which was when?

12 A I don't recall the date.

13 Q Year?

14 A I don't recall the year.

15 Q Can you give me a range?

16 A They were there in 2010, I think for a few
17 months right around the 4th of July. It would have been
18 shortly afterwards.

19 Q How long were they on the project --

20 A Six or eight wee- --

21 Q -- total?

22 A -- six or eight weeks. Maybe a little more.

23 Q It was a copper roof?

24 A Yes.

25 Q When you said you noticed issues after they left

1 the island, are you referring to when they left the
2 project?

3 A Yes.

4 Q And tell me about how they left the project. In
5 other words, did they have some kind of a contract with a
6 time limit?

7 A I don't think so.

8 Q Do you know why they left? In other words, did
9 they feel like their work was finished? Did you tell
10 them, I don't want you to work on the project anymore?
11 Or how did it end?

12 A They were supposed to be there and present until
13 we had a final walk-through.

14 Q Okay.

15 A Sarah went down for the final walk-through, and
16 they had left a day or two earlier. They being --

17 Q Barry's crew?

18 A -- the crew.

19 Q Was the final walk-through conducted a couple
20 days later regardless of whether they were there or not?

21 A They never came back.

22 Q Okay. So the walk-through you're referring to
23 is your wife, Sarah, walking through with them?

24 A Yes.

25 Q Okay. Were there any other trades on the

1 project at the time that Barry's crew was there?

2 A Yes.

3 Q Okay. What trades, just generally?

4 A Well, Chris was -- Chris was there, and the --
5 I -- I -- it's probably not appropriate calling them
6 West Indians, but the -- the other --

7 Q Okay.

8 A -- individuals were there. I'm not sure if
9 Darren was there or not. And we had our electrician,
10 Chris Clark, there as well sometimes.

11 Q Chris Clark?

12 A Yes.

13 Q The stone guys, the -- the people we've been
14 calling the West Indians, who brought those people to the
15 project?

16 A I don't know.

17 Q Okay. In other words, they were not Chris'
18 people or any particular -- Jonathan's or Kiwi's or...?

19 A Some stayed on from Kiwi, some came on
20 afterwards.

21 Q Okay. So you said your wife was there to be
22 there for the final walk-through.

23 Between you and your wife, who was most involved
24 in this project?

25 A It depends. I mean, we both were involved.

1 Q Okay. So you can't say it was mostly her or
2 mostly you, kind of 50/50?

3 A You have to ask the question. I'm not -- I
4 can't put percentages on it.

5 Q I -- I'm a- -- asking the question. I think you
6 answered it by saying, I don't know.

7 A Yeah. I -- certain things I did, certain things
8 Sarah did.

9 Q Okay. Were there certain aspects of the
10 property that you were responsible for versus her?

11 A I wrote a lot of the checks.

12 Q Yeah. That's important.

13 But I mean as far as overseeing the work?

14 A Well, when I was there I would -- you know,
15 oversee what I could.

16 Q Okay.

17 A I'm not a contractor.

18 Q Okay.

19 A When Sarah was there, she did the same.

20 Q Okay. Over the course of the construction on
21 the property, who was there more, you or your wife?

22 A Hard to say.

23 Q Okay. Are -- were you there at times where she
24 wasn't there?

25 A Yes.

1 Q And vice versa?

2 A Yes.

3 Q Okay. As far as Barry and his crew, who
4 communicated with them more, you or your wife?

5 A I -- I don't know. We had -- I had certain
6 communications with Barry and Ron -- I believe was his
7 name. He was the person that ran the office.

8 Q Ron?

9 A Ron. I think Baker may be his last name. He
10 may have been the point person we dealt with the most.

11 Q Were you able to reach Barry when you needed to
12 up to the point where he left the project?

13 A I don't know if there was ever a time when I
14 couldn't reach him. There's nothing that stands out in my
15 mind.

16 Q When you noticed, for example, the flashings
17 where the metal met the stonework or the areas seemed
18 crooked or there appeared to be some sloppy work, did you
19 bring that to Barry's attention? Or did somebody bring
20 it to his attention?

21 A Yeah, I brought it to his attention. He -- he
22 showed up during the project, and we walked it.

23 Q Okay.

24 A And I pointed what I thought were concerns
25 and...

1 Q What was his response?

2 A My recollection is he said he'd take care of it.

3 Q Okay. The response wasn't, that's how it's
4 supposed to be; or, you're...

5 A Not to my recollection.

6 Q Okay. And did he, in fact, correct it?

7 A Some was done, some was not done.

8 Q Okay. And where was Chris as far as the --
9 either inspection or observations during the roofing
10 portion?

11 A I -- I don't know. Again, he -- Chr- -- Chris
12 would work on the project --

13 Q Okay.

14 A -- from regular hours -- 7 to 3:30.

15 Q At the time Barry's crew was working there for
16 whatever weeks those were you said -- six weeks or
17 whatever it was -- Chris was present on the island at the
18 time?

19 A Yes.

20 Q And Chris was present on the job at the time?

21 A Yes.

22 Q Okay. And was the -- the issues that you
23 noticed with the roof that we just talked about --
24 flashings, sloppiness or crooked- -- crookedness -- was
25 that something that you noticed on your own or did Chris

1 bring that to your attention?

2 A I noticed certain of the items. Chris may have
3 mentioned other items to me. I just don't remember.

4 Q Okay. Did you ever meet with -- you said you
5 did meet with Barry at the project to point out these
6 things?

7 A Yes.

8 Q Was Chris present?

9 A I don't know if he was with us when we were
10 walking around.

11 Q Was anyone else other than Chris that you
12 recall?

13 A I don't really remember.

14 Q Was Ron ever at the project?

15 A No. Never. At least to -- to our knowledge,
16 Ron did not go down to St. John.

17 Q Who was the lead on the project as far as
18 Barry's group?

19 A That's a good question. His son-in-law, the --
20 who didn't have copper experience, was a framer. And he
21 appeared to be the one telling everybody what to do.

22 Q What was his name?

23 A Micah.

24 Q Micah?

25 A Yes.

1 Q During the project, with Barry's company, was
2 Barry mostly on the island during those weeks?

3 A No.

4 Q Do you know how many days he was on the island
5 during the project?

6 A I met him at the beginning -- no, strike that.

7 I met him before the actual work had commenced,
8 and I met him once during the project. I don't know if
9 he spent the night or whether he came over from BVI. He
10 was doing some other projects there.

11 Q Okay.

12 A So I don't know the length of time he was there.

13 Q Okay. How did you find Barry?

14 A He found us.

15 Q How did he find you?

16 A I don't know. But somebody who worked with him
17 came by and introduced themselves and solicited work.

18 Q Do you remember the timeframe of that?

19 A Maybe a year or two before we started with the
20 copper roof.

21 Q Prior to -- do you -- strike that.

22 Do you remember who that was that came by?

23 A Initially -- no. It wasn't Barry. I don't know
24 who it was, though. It may have been a relative of his or
25 someone -- you know, it was someone that worked with him.

1 And there was some relation. I don't really recall what
2 the relation was.

3 Q Do you know if that person or Barry's company
4 was doing any other work on the island at the time?

5 A I don't believe they had any other work on
6 St. John.

7 Q Okay. I'm just trying to understand.

8 This person's there. Was it -- were they on
9 vacation? Or do you have any idea?

10 A I think that they were doing work for -- on
11 Necker Island for Branson. And they came over initially
12 with a -- a thatch product that was -- it wasn't real
13 thatch, it was some type of synthetic thatch. And that's
14 initially, I believe, how they contacted us to see if we'd
15 be interested in that product.

16 Q What was the plan prior to being contacted by
17 whoever that was as far as who would conduct the roofing
18 on the project?

19 A Well, the -- the roof was in place. We were
20 going to put a copper cap on it, a copper top.

21 Q Okay.

22 A And that was the plan.

23 Q Okay. Was there any plan as to who was going to
24 do that before this person came by?

25 A At or near that time, or after that time, we

1 dealt with a different copper roofing contractor out of
2 Florida.

3 Q Prior to Barry?

4 A Yes.

5 Q Okay. And who was that?

6 A I don't remember his name or the company's name.

7 Q What involvement did they have on the project?

8 A Well, I believe they came down -- I don't know
9 if it was more than once or not -- and they prepared -- I
10 believe they prepared a bid and talked about design of the
11 roof and things like that. Or design of the copper
12 portion of the roof, I should say.

13 Q What -- describe the roof prior to having this
14 discussion on the copper portion. What was the material
15 on the roof?

16 A Well, it was -- again, I'm not a roofer. I
17 think the term is sheathing --

18 Q Okay.

19 A -- waterproofing, underlayments. And then there
20 was a Rolath product that was put on, which is a synthetic
21 type of material that's used. It's used in Minnesota,
22 actually, for roofing material as the finished roof.

23 Q Okay. So did it look like a finished roof at
24 that point?

25 A It was black. I mean, it was -- I don't know.

1 What do you mean finished? It was a black, Rolath,
2 rubberized --

3 Q Right.

4 A -- roof.

5 Q But I guess pri- -- was the plan all along to
6 have some kind of copper on the roof?

7 A We had wanted to.

8 Q Okay.

9 A -- that -- that was our intention.

10 Q All right. And I'm just trying to understand.
11 Prior to anyone coming and discussing the copper
12 portion did it look like a finished roof to the lay eye?

13 A I think so.

14 Q Okay.

15 A I mean, it -- you can tell -- I mean, it was a
16 rubber -- it was a rubberized -- and I'm probably using
17 the word rubber -- it was a synthetic material. I do know
18 it was called Rolath.

19 Q Rolath. Okay.

20 And aside from aesthetics, did it function
21 properly as a roof?

22 A We didn't have problems with it.

23 Q No leaks?

24 A Not that I was aware of.

25 Q Okay. And what is the period of time that that

1 Rolath was completed?

2 A I -- I don't know if it was a year or two. I
3 mean, there may have been times that we redid the Rolath.
4 So I -- I'm not sure if it was once, twice, or thri- --
5 three times.

6 Q Okay. What was your understanding of the life
7 of the Rolath?

8 A It -- it -- I don't know if I had an
9 understanding.

10 Q Okay. But did you say you had to redo it?

11 A We had it -- because of the harsh conditions
12 down there -- the wind, the sea, whatever -- you know --

13 Q The sun?

14 A -- we thought it prudent to -- I'm not sure if
15 it was redone or portions were added to it or not.

16 Q Who did that work?

17 A Chris, I believe, did the Rolath work. Or at
18 least he was one of the individuals. But he -- and he had
19 some other individuals assisting him.

20 Q Okay. And that was both the original Rolath
21 work and any follow-up?

22 A Yes.

23 Q The plan as far as the copper additions to the
24 roof, would that make the Rolath not visible?

25 A Well, once the copper's on.

1 Q Right. It completely covers the Rolath; right?

2 A It should.

3 Q Okay. Do you remember as to any particular
4 structure or the entire -- entirety of the structures how
5 many square feet of copper was required?

6 A Well, according to the CAD drawings -- and I --
7 I probably don't have these numbers correct -- but the
8 roof had 8200 square feet or -- and -- and, again, this is
9 a number of years ago. I could be off.

10 Q Understood.

11 A Yeah.

12 Q 8200 square feet total.

13 A Of copper.

14 Q Of copper total.

15 A Yeah, I think so.

16 Q Yeah. We're not talking about just the main
17 house or...?

18 A Total of --

19 Q Okay.

20 A -- of all the buildings.

21 Q Okay. And was it the intent to have copper put
22 on all the buildings?

23 A Yes. I mean, there's certain flat roofs that
24 have Vulkem.

25 Q Right.

1 A But on all the roofs that -- on each buildings
2 there was a -- yeah, an intention to have copper.

3 Q Okay. Back to this bid from the company in
4 Florida.

5 That was a written bid, I assume?

6 A I believe so.

7 Q Okay. And do you have that written bid?

8 A I don't know.

9 Q Okay. Is there any reason that wouldn't be kept
10 with other paperwork regarding this project?

11 A We've moved our offices several times, and I'm
12 not sure if those documents still exist.

13 Q Have you looked?

14 A I -- I've looked. I have not been able to
15 locate any. I'm not saying whether they're there or not,
16 but, again, a lot of the documents, when we moved, when we
17 downsized various offices, they went in storage, and --
18 you know, certain things got shredded. So I -- I just
19 don't know.

20 Q Okay.

21 A That was well before things were scanned in.

22 Q Right. How did you find this company in
23 Florida?

24 A I don't recall. Sarah may have. I don't -- you
25 know, I don't think I personally sourced them out.

1 Q Do you have any other communications with that
2 company -- e-mails, letters, faxes, whatever the
3 communications were?

4 A I'm not sure.

5 Q Did you ever pay them any money?

6 A We -- the answer is yes.

7 Q Okay. And what did you pay them for?

8 A We purchased all the copper.

9 Q Through them?

10 A Yes.

11 Q And what method of payment was used to purchase
12 that copper?

13 A Either a check or a wire. Probably a check.

14 Q Okay. And I'm just trying to figure out how we
15 can determine who this company is.

16 So the check would come from the law firm or
17 your personal account?

18 A I don't recall.

19 Q Okay. Do you recall the name of anyone that you
20 dealt with at that company --

21 A No.

22 Q -- first names?

23 A No.

24 Q And what part of Florida?

25 A I don't know. I don't recall. I do know Barry

1 went down there to pick up the copper. So he probably
2 would know.

3 Q Okay. Was the bid simply to supply the copper
4 or to install it?

5 A It -- it was we would pay for the materials, and
6 we would -- ourselves -- and they would perform the labor.

7 Q Okay. Were they paid for any of the labor
8 portion?

9 A No.

10 Q Why did you choose not to go with them?

11 A While the copper was in their warehouse, one of
12 their employees pilfered quite a bit. I understand
13 they're thousand-pound rolls --

14 Q Okay.

15 A -- and he had been trimming away at the rolls --
16 whether 5-, 6-, or 7,000-pound rolls -- there was a lot.

17 Q Yeah.

18 A The owner contacted us and advised what was
19 happening.

20 Q Okay. I mean, was that copper that was
21 earmarked for your project?

22 A Yes.

23 Q Okay. What warehouse? Was it their warehouse
24 or yours?

25 A Their -- they -- they had custody, possession,

1 and control of the copper.

2 Q Okay. So he gives you a heads-up, one of my
3 employees has been stealing the -- pieces of this copper;
4 is that correct?

5 A Yes.

6 Q Okay. But that wouldn't affect their obligation
7 to provide you with the copper that you intended to pay
8 for; right?

9 A Well, it -- it -- it did affect it. I mean, we
10 were short. Copper was stolen.

11 Q Okay.

12 A And I don't know whether -- we -- we never were
13 reimbursed for the amount of copper that was taken by this
14 company.

15 Q At the time that that was going on, this
16 employee was taking copper, was it copper you had already
17 paid for?

18 A Yes.

19 Q Did they -- did you say, are you going to
20 replace whatever your employee stole?

21 A Yes.

22 Q It seems like a reasonable request; right?

23 A Yes.

24 Q And what was their response?

25 A We never got it replaced or reimbursed.

1 Q Did they say they were going to do it?

2 A I don't recall all the -- the specifics. I do
3 believe the company we were dealing with, the individual,
4 he contacted the police and -- you know, his insurance.
5 But there really wasn't any insurance that was available.
6 And I didn't really run it down to -- you know...

7 Q Yeah. Did they ever reimburse you for any of
8 it?

9 A The --

10 Q Or provide you substitute copper?

11 A No.

12 Q Did you ever make -- did you file a claim or
13 bring a lawsuit against them?

14 A No.

15 Q How much are we talking that was taken,
16 approximately? I mean, significant amounts or...?

17 A Entire rolls weren't missing --

18 Q Okay.

19 A -- but portions of rolls were missing.

20 Q Right. And I'm just trying to understand if it
21 was, I'm not comfortable dealing with this company who
22 can't control its employees; or, I'm not dealing with
23 this company because a good portion of our copper's gone;
24 or both or...?

25 A We didn't have a good feeling dealing with this

1 company following learning what had occurred and the fact
2 that the individuals or the owner wasn't stepping up. So
3 we didn't really want to have further dealings with them.

4 Q Okay. Is -- do you have any understanding
5 whether it was just your copper this guy was stealing or
6 others as well?

7 A I'd be speculating.

8 Q Okay. A police report was filed?

9 A I believe that -- I -- I don't have -- I never
10 received it --

11 Q Yeah.

12 A -- but I believe that I was told that the police
13 were involved.

14 Q And was an arrest ever made or charges?

15 A I have no idea.

16 Q Were you ever contacted as a victim to --

17 A No.

18 Q -- you know, be a witness in a criminal case?

19 A No.

20 Q And you were never paid restitution?

21 A Correct.

22 Q Do you know the name of this employee that stole
23 stuff?

24 A No.

25 Q Do you recall what year that was?

1 A Huber did our project in 2010.

2 Q So that -- that timeframe?

3 A So it would have been a year or two before.

4 Q Okay. Was anyone else considered other than the
5 Florida company to do the copper work? Not supply it,
6 but actually perform the work?

7 A I believe the only two were the Florida company
8 and Daybreak.

9 Q Once this person came by -- did they come by
10 your property? I'm talking about the one who came by and
11 recommended Barry's company, Daybreak.

12 A He may have been with Daybreak. I don't know.

13 Q Okay.

14 A I never met the individual.

15 Q But he stopped by the property in the
16 Virgin Islands?

17 A Yes.

18 Q Did he meet with Chris? Or who did he meet
19 with?

20 A I -- I don't know if he met with Chris,
21 Jonathan, or Sarah. I -- I don't know.

22 Q Okay. So what did you all do with that
23 information? Did you say, I'll hire him immediately?
24 Did you research his background? What did you do?

25 A We were interested in the product. And we had

1 discussions whether we were going to put thatch on the
2 beach bar or copper. And after the issue with the copper
3 theft, I think we then reached out to Barry.

4 Q Did you do any research regarding Daybreak or
5 Barry's work product?

6 A Independently, I did not.

7 Q Okay. Did anyone? Did Chris, for example?

8 A I don't know.

9 Q Was any of Chris' work in Minnesota or anywhere
10 else -- was it involving copper roofing?

11 A I don't think so.

12 Q During the work performed by Daybreak did Chris
13 ever bring issues to your attention? And let's say
14 timeframe-wise prior to you noticing sloppiness or
15 crookedness or the things we talked about earlier.

16 A Well, there -- there were one or two issues that
17 Chris brought to my attention I recall.

18 Q What were those?

19 A There had to be a roof run -- electrical roof
20 run on the garage studio building, which -- something that
21 an electrician would need to do before the copper was
22 placed. And the Daybreak crew seemed to set their own
23 schedule. And even though they were advised, you can't
24 start work until we have the electrician come for this
25 building, that didn't fit their plan.

1 Q Okay. But that was the garage. And I'm --
2 I didn't limit my question to the issues in this
3 lawsuit, but that was garage-related issues; correct?

4 A Correct.

5 Q The one -- that -- that issue.
6 What other issues were there?

7 A It -- it was --

8 Q Or you said there were two, I think.

9 A Well, there was sched- -- setting schedules.
10 You know, they wanted the -- Chris and the laborers to
11 work according to how they wanted to work without
12 deference to the number of hours or weekends and things
13 like that.

14 Q Okay.

15 A And also carnival was going on during a period
16 for a few days. And it's customary that -- you know,
17 workers -- you know, don't work during carnival.

18 Q Right.

19 A So more what I heard about was the scheduling.

20 Q Yeah.

21 A And the fact that -- you know, also they would
22 leave Chris' tools -- they would borrow some, and leave
23 them up on the roof, and it would rain. These are the
24 things Chris would -- brought to me about.

25 Q Gotcha. It's like working on St. Patrick's Day.

1 A Yeah. There you go. But you're not Irish.

2 Q No. Actually, I have a done 23andMe so I'll
3 know what kind of mutt -- blood I have.

4 All right. So other than those issues you just
5 mentioned, was there any time that Chris came to you and
6 said -- during the work Daybreak was performing that
7 Chris said, hold on, I don't think this is the company
8 for the project; or, this doesn't look like it's being
9 performed properly?

10 A We did not have those conversations.

11 Q Okay. Was Chris' -- Chris' job duties on the
12 project, did it include inspecting work performed by
13 other trades, any trades, including roofing?

14 A At times.

15 Q Okay. What do you mean at times?

16 A Well -- you know, if -- if somebody was there to
17 do work and I was off island, I would ask Chris, was it
18 done?

19 Q That sounds reasonable.

20 Did you have to ask him that or would he kind of
21 act as a superintendent-type or a project manager or a
22 foreman?

23 A Chr- -- Chris -- you know, he would talk to me,
24 but he's not the most communicative individual.

25 Q Okay.

1 A I sometimes would have to ask him questions to
2 get information.

3 Q Okay.

4 A But he was -- he was responsive when you asked
5 him --

6 Q Right.

7 A -- the question.

8 Q Okay. Was there any time during the project on
9 any portion of the project, any trade where Chris
10 contacted you without you asking him, how's it going, and
11 said, I think this is a problem?

12 A I -- I believe there were.

13 Q Okay.

14 A I mean, again, this project went on for many,
15 many years.

16 Q Yeah. Anything related to the roof?

17 A Not to my knowledge.

18 Q Okay. Do you know as far as the main roof --
19 the main house roof how much that square footage was? I
20 know you gave me an estimate total.

21 A 5,000. 4,000, 5,000. It's -- it's a good chunk
22 of the square footage. But, again, the plans will speak
23 as to what the square footage is.

24 Q When did Hurricane Irma hit?

25 A September 2017.

1 Q And if Barry was on the project in 2010, that
2 would mean the copper portions of that roof existed for
3 eight years; is that correct?

4 A Seven years.

5 Q Seven years. Agreed.

6 Does that -- is that correct?

7 A I believe so.

8 Q Prior to Hurricane Irma were there issues with
9 water leaks in the main house?

10 A I think that they were resolved. I don't recall
11 any.

12 Q You're shaking your head.

13 Is that a no to that question?

14 A Probably my head moved, and I'm sitting here
15 thinking.

16 Q Yeah. Okay.

17 A I -- I don't recall. I believe we had leaks --
18 you know, or issues, but I believe that they were
19 addressed.

20 Q Who were they addressed by?

21 A Chris did some work. I'm not sure if we had
22 people down there. There were caulking issues and plaster
23 issues where the copper would meet other materials. Those
24 appeared to be the source of the leaks.

25 Q Once the copper portion of the roof was

1 completed was there other work that needed to be
2 performed on the roof? And I'm talking about independent
3 of any leaks. Or was that supposed to be the completion
4 of the roof?

5 A That was supposed to be the completion of the
6 roof.

7 Q Okay. Was there any portion -- and I'm not
8 limiting it to the main house -- was there any portion of
9 the roof that you felt at the time Chris left -- in other
10 words, a day or two before that walk-through was
11 scheduled with your wife -- that his job was not
12 completed?

13 A You mean Barry? Not Chris.

14 Q Oh, I'm sorry. Barry.

15 A I don't know. I wasn't present at that
16 particular time. But there were -- if -- if I recall,
17 there was -- some correspondence went back and forth about
18 we consider- -- what we considered to be outstanding
19 issues.

20 Q Okay.

21 A And there were issues that -- materials we were
22 billed for never arrived.

23 Q Okay.

24 A And -- and there was some acc- -- accounting
25 issues. That portion I do recall. And I believe I wrote

1 a letter to Barry --

2 Q Okay.

3 A -- detailing it all.

4 Q And I think I have that.

5 But kind of aside from the accounting issues,
6 were they kind of punch list items?

7 A That's a nice way of putting it.

8 Q Okay. And where was the copper stored on the
9 island during the work of Daybreak?

10 A The machine -- forming machine was by the garage
11 doors on the upper portion of the property. I think we
12 got a 20-foot container to put the copper in. Because of
13 the value of the copper --

14 Q Right.

15 A -- we didn't want to just leave it out.

16 Q Right.

17 A It's either there or in the garage -- they put
18 it in.

19 Q Okay.

20 A But it took a machine to move the rolls.
21 They're thousand-pound rolls --

22 Q Right.

23 A -- from what I understand.

24 Q Right. Copper is obviously valuable. We know
25 an employee -- not at Daybreak, but the other --

1 Fort Lauderdale employee was stealing it; correct?

2 A That's what I understand.

3 Q And there would be a worry if it was left
4 unattended on the island it could disappear; right?

5 A We wanted to make sure that the copper was
6 secure.

7 Q Right. Was any copper unaccounted for or
8 missing or stolen while on the island?

9 A No. To our knowledge, no. But there were two
10 or three times that they had to send down supplemental
11 copper.

12 Q Okay. And I'm not suggesting it's not prudent
13 to get a 20-foot trailer or put it in a garage. I'm just
14 trying to understand if there was any theft that you're
15 aware of.

16 A Not my knowledge.

17 Q Okay. How many people comprised the Daybreak
18 crew?

19 A I think six.

20 Q You mentioned Chris' crew wanting to work
21 certain hours that might not have been consistent with
22 the -- either the Western Indian crew or Chris' crew or
23 whoever.

24 A You -- you mean Barry's crew. You keep saying
25 Chris' crew.

1 Q Let me back up. Maybe I misstated something.
2 Barry's crew, the Daybreak crew --

3 A Uh-huh.

4 Q -- you said they wanted to work hours that may
5 not have been consistent with Chris' crew.

6 A Yes.

7 Q Okay. Was there any discussion between you and
8 Barry or Ron or anyone at Daybreak that, hey, we have a
9 limited time we're down here. We've got other roofs to
10 go build or work on, so we need -- you know, we need all
11 hands on deck for at least a few week period here?

12 A I -- I'm not sure if that -- if we had those
13 specific discussions.

14 Q Was -- was there ever any complaints by Barry or
15 anyone at Daybreak about that type of issue?

16 A What type of issue?

17 Q Meaning coordination; and, we -- we need people
18 there, and they're not there when we need them there?

19 A No. I think the issue was more that they wanted
20 to work more and extend beyond regular working hours. And
21 weekends and holidays, they wanted to be there --

22 Q I understand.

23 A -- because they wanted to go home. But we
24 needed to have somebody on-site while they were there.

25 Q Right. I mean, I -- I'm under- -- I get both

1 sides of this. I'm just trying to understand what
2 complaints may have been made to you by anyone at
3 Daybreak about that. Like, listen, we're not even
4 getting the full-time before we talk about weekends or
5 carnival time --

6 A Sure.

7 Q -- or extra time.

8 A They were there full-time plus.

9 Q Okay. Was it your sense that Daybreak wanted to
10 work seven days a week -- not 24/7, but...

11 A My sense was that the crew wanted to go back to
12 Florida once or twice during the project, and Barry didn't
13 approve of that transportation --

14 Q Okay.

15 A -- the cost -- and told them to work through.
16 And...

17 Q Barry's crew was the U.S. crew?

18 A Yeah. Well, they're from Florida.

19 Q Okay. I mean, it wasn't a local Virgin Islands
20 crew?

21 A No. They were -- they flew in from Florida.

22 Q Okay. And did you ever have any discussions
23 about that with Barry such as, listen, if -- if the
24 property's not going to be available as many hours as we
25 need it, then I'm going to need some help with the

1 transportation issues or that kind of thing?

2 A No. I mean, basically Barry said, I'm going to
3 do the project. The dates and the hours -- you know, we
4 didn't control, but the access to the site was something
5 that we had hoped that they would coordinate with Chris
6 and the other folks. They seemed not to want to
7 coordinate. They wanted to pretty much come and go or
8 stay as they please. And I think at the end of the day
9 Chris and the crew just accommodated them.

10 Q Okay. Do you know if there were any times where
11 the Daybreak crew was there without anyone else?

12 A I -- I don't know. I -- I do recall hearing --
13 you know, some -- not being happy at -- at having to be
14 there on weekends and -- you know, but I believe that
15 there was someone there at all times.

16 Q You recall someone not being happy about being
17 there on the weekends.

18 Are you talking about Chris and his crew?

19 A Yes.

20 Q Okay. But my question is was there ever a time
21 where Barry's Daybreak crew was there without anyone
22 else?

23 A Not to my knowledge.

24 Q The property itself, it's -- it's a place for
25 you and your wife to get away; is that fair?

1 A Yes.

2 Q Is it an intent for you to live there
3 permanently at any point?

4 A I don't believe so.

5 Q Any plan to rent it?

6 A You know, at the time we talked about -- when we
7 were building it we were thinking about it. But that's
8 never come to fruition.

9 Q Okay. It's never been rented?

10 A Correct.

11 Q Tell me, to your knowledge, what are the issues
12 with the roof on the main house?

13 A As I understand, on the west side the pans,
14 which are like pie-shaped portions, they're supposed to be
15 cleated or clipped approximately 9.5 inches on center.
16 There are sections where there are clips missing the
17 entire run, which allowed uplift during Hurricane Irma.

18 Q The sections where clips are missing, is that
19 only on west side -- the west side?

20 A There may be more. But in order to see the
21 clips, you have to remove or take up part of the -- the
22 roof. I believe there were one or two, maybe three, areas
23 on the west side that were removed and inspected, and the
24 clips were not as set forth in the contract. There were
25 not clips there at 9.5 inches on center or even at

1 12 inches on center.

2 Q Were there any clips discovered?

3 A On -- on one of the sections, no. They were
4 like -- I mean, I don't want to pull numbers out of my
5 head, but there -- there may have been clips on a portion
6 of it because I think you're talking from the top of the
7 roof to the gutter -- 34, 38 feet.

8 Q Uh-huh.

9 A I -- I'm not here because -- to say that there
10 were no clips. But the area where the roof came apart,
11 there were no clips.

12 Q Who discovered that there were no clips?

13 A The individuals from Dahill came down to do the
14 repair. And I believe Art Sanders also came down. He may
15 have come down separately from the Dahill crew. This
16 would have been 2018.

17 Q You may have answered this, but do you know if
18 any clips were discovered at any time?

19 A I'm sorry. Any clips...?

20 Q You mentioned that there were no clips that were
21 9.5 or even 12 inches apart. And I'm trying to
22 understand whether there were any clips.

23 A My recollection is the -- one of the pans was
24 separated. The -- they pulled out -- because I was asking
25 the questions, what are you talking about? Why did this

1 separate? And he said, there's no clips. And they used
2 tools to disassemble and bring it up. And I don't know if
3 it was 6 feet, 8 feet, 10 feet -- there was portions there
4 were no clips.

5 Q Okay.

6 A That I do recall.

7 Q And that I understand.

8 A Yeah.

9 Q But were there portions where there were clips?

10 A Oh, I suspect there were. But we didn't dis- --
11 the roof wasn't taken apart.

12 Q Okay.

13 A I'd be speculating either way.

14 Q Yeah. So you -- you're not aware whether there
15 were any clips determined to be present? I'm just trying
16 to understand is this a situation that you were told,
17 these clips were too far apart; or, there are no clips at
18 all? That's what I'm trying to understand.

19 A Sure. The area that was disassembled for me to
20 take a look at had no clips at all.

21 Q Okay.

22 A You know, I can't tell you if that was -- you
23 know -- you know, you have the pie section, and they would
24 take a -- and I'm probably using the terms incorrectly --
25 a ridge cap -- and then they'd lift it up --

1 Q Okay.

2 A -- and you're supposed to see the clips holding
3 down the sections.

4 Q Right.

5 A I do know specifically there was one section
6 there were no clips, and there may have been two or three
7 other sections.

8 Q Were there any areas disassembled where clips
9 were found?

10 A I -- I think there -- there were on the east
11 side.

12 Q Okay. So is the claim related entirely to the
13 west side of the roof?

14 A Well, about a third or a half of the roof seemed
15 to have lifted up. You can step on it, and it --

16 Q Did you say a third or a half?

17 A Yeah, about a third or a half.

18 Q Continue. You were saying you can step on it...

19 A Step on it, and there would be -- it's not
20 supposed to go up and down. There's not supposed to be
21 some bounce to it.

22 Q Right.

23 A There was bounce to it. And I asked the
24 question, why is there boun- -- you know, these are my
25 terms --

1 Q I understand.

2 A -- and I was advised it's because wind had
3 gotten underneath the pans.

4 Q Right. When you're using any of these terms, I
5 assume you're not going to be acting as an expert in this
6 case; correct?

7 A I am not a roofing or copper --

8 Q Right.

9 A -- individual/expert, that is correct.

10 Q You're -- you're doing the best you can to
11 describe various building components, and -- you know,
12 things like bounce -- I -- I'm following --

13 A Yeah.

14 Q -- what you're saying, but I understand --

15 A The- -- these are lay terms.

16 Q Right. Okay. You don't have a general
17 contractor's license?

18 A No.

19 Q Or any contracting license; correct?

20 A Correct.

21 Q Have you ever built a home -- and by built I
22 don't mean you with your own hands -- but have you been
23 an owner of a home that had copper roofing?

24 A No.

25 Q Let's talk about Irma.

1 What were the maximum winds in Irma?

2 A Well, the claimed report of maximum winds were
3 225. I don't know that's verified or not.

4 Q Is that the highest winds that you're aware of
5 that have ever been recorded on the Virgin Islands if
6 those winds are true -- the 225?

7 A I don't know.

8 Q Okay. Do you know if there's any particular
9 rating regarding those clips? In other words, in what
10 winds will these clips not hold up?

11 A Well, again, I don't have really personal
12 knowledge regarding that.

13 Q Okay.

14 A All I can tell you is that the sections that
15 failed had no clips. The sections that didn't fail
16 presumably had clips.

17 Q Or maybe they didn't. I don't know either.

18 But my -- my point is have you ever researched
19 or has anyone told you what the maximum winds these clips
20 would be expected to hold?

21 A I haven't seen the Material Safety Data Sheets
22 on these clips.

23 Q Whether you've seen those sheets or not has
24 anyone told you about the maximum sustained wi- -- winds
25 that these clips would hold up under?

1 A Well, again, when I spoke to Art Sanders and the
2 Dahill people, they advised me that there were no clips in
3 the areas that failed. And I believe they had looked at a
4 certain other portion on the west end that -- that had
5 clips. They may not have been spaced exactly 9.5, but
6 there were some -- there were clips present.

7 Q That's not my question.

8 My question is has anyone told you what -- the
9 maximum winds that these clips would be expected to hold?

10 A I don't know the maximum these clips would --
11 are designed for.

12 Q I know. But has anyone to- -- ever told you
13 what -- what they are?

14 A No one has said, this clip is designed for
15 X number miles per hour.

16 Q Okay.

17 A Other than to tell me that it's all Dade County
18 approved, whatever that means.

19 Q Yeah. Do you know what that means?

20 A Not really.

21 Q Where were you when Irma hit?

22 A I was in St. John at the home.

23 Q Did it hit during daylight hours or nighttime?

24 A Daylight.

25 Q Who was present?

1 A Well, Sarah and I were both present.

2 Q Okay.

3 A I'm not sure if we put Chris or Thomas in the
4 studio or not. Because we thought that our house would be
5 safer for them.

6 Q Than theirs?

7 A Yes.

8 Q Okay. And what was it like during Irma? Was it
9 scary?

10 A Well, we've been through a few big storms. Not
11 there, but -- yeah, it was -- it was -- yeah, I would say
12 it was scary.

13 Q What category was Irma?

14 A Five.

15 Q And I don't mean this facetiously -- was there a
16 reason you were there at the time? In other words, a lot
17 of people flee --

18 A Yeah.

19 Q -- flee such things.

20 A Sure. I had a court hearing that I needed to be
21 in St. Thomas for two or three days before. And there was
22 rumor that the storm was coming, but it was going to go
23 north of us -- as they usually do.

24 Q Right.

25 A And it wasn't until 12 hours or so before it hit

1 that we realized that now we're going to get hit, and then
2 there really wasn't ability to leave.

3 Q Right. Right. Was there an evacuation order at
4 any point?

5 A I don't know if there was or wasn't.

6 Q Okay.

7 A I mean -- you know, the challenge with St. John
8 is you have to get from -- on ferry or barge to
9 St. Thomas, and they shut the ports down.

10 Q Right.

11 A So --

12 Q Yeah.

13 A -- there's not much you can do at that point.

14 Q I take it you didn't have a boat there?

15 A We had a boat.

16 Q Okay. Could you have gotten from St. John to
17 St. Thomas by your boat?

18 A It was secured to the driveway, latched down on
19 the trailer --

20 Q Right.

21 A -- and I would not have put it in the water with
22 a storm coming like that.

23 Q Right. What was your sense as far as the people
24 on St. John? Did most people leave? Did most people
25 stay? Some combination?

1 A Most of the island's made up of tourists. I
2 think a lot of tourists left. You know, other -- they may
3 have gone to -- there are evacuation places -- you know,
4 where people can go --

5 Q Right.

6 A -- they went there. Again, there wasn't great
7 communication. We --

8 Q Yeah.

9 A -- knew a storm was coming. We didn't know if
10 we'd be in the crosshairs of the storm or not.

11 Q Right. Did you have -- prior to this storm
12 coming did you have TVs at the house and things like
13 that?

14 A Yes.

15 Q Okay. So you could watch The Weather Channel?

16 A Well, we watched it until it stopped working.

17 Q Right. Right. When was the last roof leak in
18 the main house prior to Irma hitting?

19 A Some time before.

20 Q Months before or -- I'm just trying to get an
21 understanding.

22 A May have been years before.

23 Q What's that? Maybe years?

24 A It may have been, yeah.

25 Q Okay.

1 A The roof leaks were not a real big concern at
2 the time of Irma.

3 Q And did the roof begin leaking during Irma?

4 A In -- in the gatehouse, where we were, I don't
5 believe it did.

6 Q How about in the main house?

7 A I don't know. There may have been some leaks.
8 I didn't go down there during the actual storm.

9 Q Right. But afterwards you would see evidence of
10 a leak if there were some.

11 A You know, there --

12 Q Did you notice anything?

13 A -- there was wind-driven rain, horizontal rain.
14 You know, there was some moisture that came in. I don't
15 know whether it was from -- you know, other openings or
16 the roof. I -- I really couldn't say.

17 Q Okay. What type of door systems were there on
18 the main house? In other words, were there sliding glass
19 doors or things like that?

20 A It was all plywood. It had been secured up.
21 There were no doors at the time.

22 Q Okay. And who put up the plywood to secure it?

23 A Well, Chris and some of the other individuals.

24 Q Okay. And was that specifically for Irma?

25 A No. That was just -- well, I take that back.

1 It was to secure the buildings. And then they
2 were re-enforced prior to the storms coming. Because we
3 had some knowledge that there were storms coming.

4 Q Okay. I'm just trying to understand.

5 Was the plywood there to secure the building
6 unrelated to storms?

7 A That was the intent.

8 Q Okay. Meaning keep people out and that kind of
9 thing or...?

10 A Well, just to keep the buildings closed and
11 secured.

12 Q Okay.

13 A So they wouldn't be exposed to the elements.

14 Q Right. So I assume there are doors on the main
15 house now?

16 A There's some doors. There's still some openings
17 that haven't been installed.

18 Q Okay. And what kind of doors have been
19 installed?

20 A Just regular doors.

21 Q Okay. Is there a plan for sliding glass doors
22 or -- you know, doors that are larger than a regular
23 door?

24 A Yeah. We -- we've been to the builders show and
25 talked and had discussions with various manufacturers.

1 The plan was to put them in last year, but -- you know.

2 Q Okay. But there is a plan for such --

3 A Oh, yes.

4 Q -- other doors?

5 A Oh, yes.

6 Q Okay. And the plywood -- was anything other
7 than plywood used to secure the main house?

8 A Yes.

9 Q What?

10 A A product called Storm Catcher.

11 Q What is that?

12 A It's a Kevlar-based product similar to
13 Armor Screen that is made -- that is to Dade County
14 Specifications. My understanding is it's supposed to stop
15 95 percent of wind and rain up to 150 miles per hour.

16 Q Okay. Which would leave 75 miles an hour if
17 it's 225; right?

18 A The Storm Catcher survived just fine.

19 Q Okay. Did any of the plywood have a breach or
20 disappear?

21 A No. And, again, the 225 was just kind of rumor
22 on the island as to --

23 Q Understood.

24 A -- what the maximum winds -- sustained winds. I
25 don't think they were actually measured or there was --

1 was ability to actually measure them on St. John.

2 Q Do you know if it was a direct hit to St. John?

3 A I don't think it was a direct hit. But the
4 eye- -- portion of the eyewall did go over the island.

5 Q How long -- are you aware of how long the
6 hurricane-force winds were battering the island?

7 A Couple hours. I mean, that's just a guess.

8 Q Yeah. Do you remember the speed of the storm?
9 Its forward speed, for example?

10 A Not really.

11 Q Okay. And you're not a meteorologist, I take
12 it?

13 A No.

14 Q Was there any damage to any of the property
15 other than the roof lift- -- lifting up?

16 A Yes.

17 Q What -- what -- describe the damage.

18 A We lost a bit of plaster on a number of
19 structures. Our generator took a strike. Someone's roof
20 took off the console -- or the center console for our
21 boat.

22 Q Someone else's roof?

23 A Yeah.

24 Q Okay.

25 A Yeah. About 50 percent of the homes were

1 destroyed on the island. And -- you know, we had a --
2 quite a bit of cosmetic damage, foliage damage, generator
3 damage. You know, had a new truck, a deck went through
4 the windshield -- you know, and the like. You know, the
5 actual physical integrity of the structures held.

6 Q Did you have property insurance?

7 A We did have property insurance.

8 Q And did -- how did that work? Did you make a
9 claim?

10 A It didn't work out very well.

11 Q Okay.

12 A We were underinsured. And so there's a
13 tremendous penalty for being underinsured and -- you know,
14 it was my -- so at the end of the day, no, we really did
15 not make out very well at all.

16 Q Who was the insurance with?

17 A It was through Lloyd's. Don't recall which
18 Lloyd's underwriter it was.

19 Q Did you have an agent?

20 A No. Did we have an agent? Yeah. I think the
21 pro- -- the product was purchased through Tunick Insurance
22 in -- in -- they have an office in St. John.

23 Q Does it still exist?

24 A Tunick is still in existence.

25 Q Were -- was there an amount paid out?

1 A There was an amount paid out.

2 Q And what was that amount?

3 A 100,000, I'm thinking. I -- I could be off. It
4 could be a little more. I don't think it was less.

5 Q Do you remember the total amount of the
6 coverage?

7 A I believe we had a million-dollar coverage. Or
8 at least the property was insured for up to a million
9 dollars.

10 Q Was there any claim made -- I know a claim was
11 made.

12 Was there any litigation that arose out of the
13 property insurance claim?

14 A Yeah. We had to sue.

15 Q And was that a settlement for 100,000 plus?

16 A It was -- I mean, again, I don't recall the
17 exact number, but, yeah, it was a settlement.

18 Q Where was the suit?

19 A It was in the Virgin Islands.

20 Q Which court?

21 A District Court.

22 Q When did that resolve?

23 A Hurricane -- it was 2017, was the hurricane.
24 Before 2020.

25 Q And how did it resolve? Was it a mediation?

1 Did it go to trial?

2 A No. It resolved by way of settlement. And I
3 should add that amount is -- whatever amount was paid was
4 a confidential amount.

5 Q Okay.

6 A So I'm going to ask Ms. Reporter to note the --
7 any dollar amount I probably shouldn't be saying it
8 without permission to do so.

9 Q Okay. Did you sign a release --

10 A I prob- --

11 Q -- pursuant to that settlement?

12 A I'm sure I did.

13 Q And are you 100 percent sure there's a
14 confidentiality provision?

15 A I would say yes because since I've been
16 practicing in the Virgin Islands, every single lawsuit
17 I've ever been involved in has a confidentiality
18 provision. They're very big on them down there.

19 Q Okay. And who was the suit against? You
20 versus -- or tell me who the plaintiffs were and who --

21 A We were the -- Sarah and I were the plaintiffs
22 versus the underwriter -- underwriting entity. I don't
23 recall --

24 Q Do you remember the name?

25 A No. I -- it was a Lloyd's underwriter. I don't

1 recall specifically the -- the name of it.

2 Q Okay. All right. Let's go ahead and take a
3 break. We've been going for two hours. I'd like to take
4 a break for the court reporter and anybody who wants a
5 break.

6 A Sure.

7 (Off the record at 12:06 p.m.)

8 (On the record at 12:12 p.m.)

9 BY MR. COSBY:

10 Q Do you know anything about the structures that
11 existed on the property prior to your purchase of the
12 property?

13 A Yes.

14 Q And I mean before whatever Hur- -- you said
15 Hurricane Marilyn took those down.

16 So do you have an idea, either through pictures
17 or otherwise, what it looked like previously?

18 A Yes.

19 You know, real quick, I just want to make
20 sure -- I may -- I want to make clear that the clips that
21 were missing were on the east side, not the west side.

22 Q Okay.

23 A And Sarah mentioned to me during the break I may
24 have confused those two.

25 Q Okay. So is it your understanding that the

1 issues with the roof of the main house are limited to the
2 east side?

3 A I wouldn't say limited. But my understanding is
4 that the clips that were discovered to be missing were on
5 the east side.

6 Q Okay.

7 A The entire roof has not been ripped up, so I
8 don't know. And I'm not going to speculate. But the
9 failure -- failed areas that we're aware of are on the
10 east side.

11 Q Okay. So this -- I don't know -- this bouncing
12 that was -- that you've described, is that predominately
13 on the east side?

14 A Yes.

15 Q Okay. Does the west side have any of that
16 bounce?

17 A I don't know.

18 Q Okay. And how about north and south? Or is it
19 strictly an east or a west thing?

20 A It may not necessarily be -- you know --

21 Q I'm not going to --

22 A -- it's the area facing the ocean.

23 Q Okay.

24 A Which is a good -- you've seen pictures, I
25 think.

1 Q Right. Yeah.

2 A So the area facing the ocean is the area of
3 concern.

4 Q Okay. Have you walked the entire roof or the
5 majority of the roof since Irma?

6 A I -- I'm sure I did.

7 Q Okay.

8 A I don't specifically recall everything about the
9 roof, but I'm sure I walked around on the roof.

10 Q Right. What areas were there actual breaches of
11 the roof? In other words -- let me -- let me retract
12 that question. Let me ask a different question.

13 Were there actual breaches in the roof?

14 A There was one area that there was a minor
15 breach -- the master bedroom on the north side.

16 Q Okay.

17 A Or the approximate north side of the property.

18 Q Do you know if there were any components of the
19 roof that blew away or were missing completely --

20 A No.

21 Q -- after Irma?

22 A No. The -- the challenge or the breaches
23 occurred because of, I believe, debris. There were homes
24 above us and around us that were flattened. And our
25 speculation is --

1 Q Uh-huh.

2 A -- that it was debris from those homes that
3 struck the roof.

4 Q Uh-huh. But you described a lifting up.
5 Nothing lifted up and blew away?

6 A No. There was a -- a small area that needed to
7 be repaired with more copper. And it really wasn't lifted
8 up, it was -- I don't know if it was deformed from debris
9 hitting it --

10 Q Okay.

11 A -- but it -- it was something that was
12 addressed.

13 Q Were any claims made against any neighbors?
14 Sometimes debris can't be helped, but sometimes it --
15 stuff isn't secured. Was there any claim brought against
16 any neighbor --

17 A We -- we --

18 Q -- related to debris?

19 A -- we did not.

20 Q Okay. It's hard to identify where anything came
21 from, I assume, directly or specifically?

22 A It was a war zone afterwards. So...
23 You're from south Florida --

24 Q Right.

25 A -- you -- you understand what hurricanes can do.

1 Q Yeah. Absolutely.

2 What kind of water intrusion was flooding -- was
3 there any flooding?

4 A Not really. It was more wind in Irma.

5 Q Right. Okay.

6 A I don't believe we really had a water intrusion
7 issue.

8 Q Do you know what the altitude is at your
9 property?

10 A Well, we go from sea level to about 110 feet.

11 Q Okay. That's all your property -- from sea
12 level to 110 feet?

13 A Well -- you know, there's a -- an abandoned
14 right-of-away, a state right-of-way in front of our
15 property --

16 Q Okay.

17 A -- that may be 20 feet from the mean high tide
18 that doesn't technically belong to us.

19 Q I gotcha.

20 There's nothing you have like a dock or anything
21 like that --

22 A No.

23 Q -- correct?

24 A Correct.

25 Q It's a beautiful area. No doubt about that.

1 There are properties above yours as far as
2 altitude?

3 A Yes.

4 Q So back to what structures may have been on the
5 property prior to them being destroyed or altered by
6 Hurricane Marilyn.

7 How many structures were there on the property?

8 A There was a home. We used some of that
9 foundation for the gatehouse.

10 Q Okay. Were there multiple structures like you
11 have or just a single home?

12 A I don't believe there were multiple structures.

13 Q Who did you purchase the property from?

14 A We purchased it from a husband/wife individual.

15 Q Who -- do you know their names?

16 A Not off the top of my head.

17 Q And had they lived there?

18 A No. Excuse me. Not to my knowledge.

19 Q Okay. So I'm trying to understand kind of the
20 chronology -- not from the beginnings of time -- but do
21 you know how many owners there had been on the
22 property --

23 A Several.

24 Q -- of the property?

25 A Several.

1 Q Several. Okay.

2 And the ones you purchased from never lived
3 there?

4 A Oh, I don't know. They -- they may have lived
5 there.

6 Q Did they own it a short period of time?

7 A I don't recall.

8 Q Okay. And do you know who they purchased from?

9 A No. I -- I do know that the property was
10 subdivided out of the Massac Estate, Chocolate Hole
11 Estate --

12 Q Okay.

13 A -- and sold to an individual before ECHLA came
14 into -- which is the homeowners association --

15 Q Okay.

16 A -- before it came to existence.

17 Q Okay. And the home was -- was it just listed as
18 a property for sale when you bought it?

19 A It was land, yeah.

20 Q I mean -- yeah. The land was?

21 A Yes.

22 Q Okay. Do you know -- I'm just trying to
23 understand what happened.

24 Marilyn happens, levels their property.

25 And were these owners you bought it from in

1 possession of it when Marilyn hit?

2 A I don't recall --

3 Q Okay.

4 A -- if they were or weren't.

5 Q Okay. And what was the purchase price of the
6 land?

7 A I'm not sure that's relevant. It's privacy.

8 Q Okay. Well, I don't think you can raise a
9 relevance objection at a deposition, but...

10 A Privacy. What we paid is not -- is -- is -- is
11 a -- is a private matter.

12 Q Is there any public record of that?

13 A I don't know. Not to my -- I -- I mean, I don't
14 know if there is or isn't.

15 Q What was the total -- do you have an idea,
16 estimate, ballpark, or do you know specifically what
17 you've paid for your entire building project since you
18 purchased the property?

19 A Not off the top of my head.

20 Q What was your contract with Daybreak -- the
21 dollar figure, if there was one?

22 A I -- I'm thinking just shy of 200.

23 Q Were there any add-ons?

24 A There was an initial contract, and then before
25 work began there was an add-on.

1 Q Change order?

2 A Well, I don't know if it was a change order, but
3 before the contract was signed, there was an add-on.

4 Q What was the original price?

5 A It was an add-on of 10- or 11,000 dollars.

6 Q What was that regarding?

7 A Specifically the cleats and the spacing of the
8 cleats.

9 Q And where did that come from that -- who -- who
10 determined that there needed to be an add-on? Was that
11 you or Daybreak or someone else?

12 A Daybreak decided they wanted to charge us more.

13 Q Okay.

14 A Huber decided he wanted to charge us more.

15 Q Okay. But did -- who decided that there needed
16 to be these specific cleats and spacing of the cleats?

17 A That was a discussion with -- with Huber. And
18 the representation was that the 9.5 on center was what was
19 necessary for the hurricane protection that we were
20 seeking.

21 Q Right. And I'm trying to understand who raised
22 that issue.

23 A I wasn't part of the actual discussion with
24 Huber at the initial, and I don't know if Sarah did it or
25 not. The initial proposal was 12 inches on center, and

1 then it got to 9.5 on center. And there was an additional
2 charge for that.

3 Q Who -- who was involved in that discussion?

4 A Well, at some point I suspect I was. But in
5 terms of why it went from 12 to 9.5, my only understanding
6 is is that it was done specifically for hurricane
7 protection.

8 Q Right. But I'm trying to understand where that
9 came from. It doesn't sound like it came from
10 Daybreak -- hey, we need you to go from 12 to 9.5.

11 A Don't know if -- I mean, there were discussions
12 with Barry regarding the cleat spacing.

13 Q Right.

14 A Ultimately that was what was agreed upon, and
15 that's what he represented he would do.

16 Q And I'm trying to understand what led to that
17 discussion. I mean, you all have a contract to
18 perform -- for him to perform roofing work.

19 What stopped that or caused this add-on to be --

20 A Well --

21 Q -- discussed?

22 A -- no -- no work had yet been done. He had sent
23 a proposal.

24 Q I understand.

25 A And the discussion, I believe, was that the

1 prior contractor had cleating spacing less than 12 inches
2 on center. And, again, Sarah had spoken with him. My
3 understanding is that there had been some type of
4 engineering, and there was discussions with Barry
5 regarding engineering the roof and what was necessary to
6 give it whatever Dade County rating it needed.

7 Q The prior company, you're referring to the
8 Fort -- the Florida company?

9 A Yes.

10 Q That you don't recall the name of?

11 A I don't recall their name.

12 Q All right. Is there an engineer?

13 A We didn't hire an engineer. I do believe the
14 prior company -- I think had an engineer. How they went
15 about it, I'm not sure.

16 Q Do you know if Chris was involved in this
17 cleating issue?

18 A No.

19 Q Do you know of anyone that was involved with it
20 aside from Daybreak and you or Sarah in terms of this
21 add-on being discussed?

22 A No.

23 Q Who was the architect?

24 A Springline Architects.

25 Q Where are they located?

1 A They were in St. Thomas.

2 Q They're gone?

3 A The company is no longer in existence, is my
4 understanding.

5 Q Are they the only architects for this --

6 A For the main house that was built, yes.

7 Q Okay. For any other structures?

8 A Well, we had a prior architect for the
9 gatehouse.

10 Q Who was that?

11 A Michael Milne, Barefoot Architects.

12 Q What did Springline do as architects on the
13 project? What was their role?

14 A They were the architect of record.

15 Q Okay.

16 A They did it all.

17 Q All right. On the main house?

18 A Well, the main house, the -- you know,
19 guesthouse, dining gazebo, and -- you know, whatever else
20 they do in terms of the topography and things like that.

21 Q So did they prepare the plans and the
22 specifications?

23 A Yes. But they didn't do anything referable.
24 There was no copper roof analysis done by them.

25 Q But I'm not there yet. I'm just trying to

1 understand if there were any plans.

2 A Yes, there are plans.

3 Q Okay. The plans didn't have detail for the
4 copper roof; is that fair?

5 A Correct.

6 Q Plus it didn't have any detail as to clips or
7 clip spacing?

8 A Correct.

9 Q Is there any alternative to having clips? In
10 other words, is there some other product to secure?

11 A I don't know.

12 Q Did you ever determine through billing or
13 otherwise whether you were charged for clips at the
14 spacing of 9.5 or 12 or whatever?

15 A What I do know is that material was sent down.
16 Ron Baker was in charge of it. And there were two or
17 three times during dependency of the project Daybreak's
18 crew, particularly Micah, had indicated that materials --
19 they were shorted materials, Ron didn't send them down.
20 On several occasions additional materials came down, and
21 one time someone hopped on a plane and brought some more
22 materials down. Whether they were clips or not, I don't
23 know.

24 Q Okay. Tell me the ways that materials were
25 delivered to the project.

1 A Initially in a container or two. The -- I would
2 say it was our expectation that everything was going to be
3 containered in and within those containers.

4 Q What size container?

5 A They were 20-foot containers. You're -- you're
6 limited in that area -- you know --

7 Q Okay.

8 A -- bringing 20-foot containers.

9 Q And where do those get transported to?
10 St. Thomas?

11 A Yes. They initially were brought to St. Thomas
12 and then trucked over to our property.

13 Q Okay. Are they locked containers or secured
14 containers?

15 A I think once they're empty they're taken away.
16 We had rented our own 20-foot storage container for the
17 site that was locked.

18 Q Okay. I'm trying to understand the process,
19 though.

20 If things are missing, I start thinking about,
21 okay, from Point A to Point B, how do they get there? So
22 if they're sitting in St. Thomas somewhere, it wouldn't
23 be unheard of for something to go missing.

24 A I don't think there's any issue with theft along
25 the way.

1 Q Okay.

2 A The issue was is that Ron, who was in charge,
3 didn't procure what was necessary.

4 Q So how do we know that versus theft?

5 A Because I was told that by Micah and other
6 individuals there. And they were calling Ron complaining,
7 why isn't this here, you were supposed to ship this down.
8 That's how I know that.

9 Q Right. But what was Ron's response to that?
10 I -- I did; or, sorry, I forgot?

11 A I didn't speak to Ron, but I know other
12 materials came like within -- right away, day or two or
13 three after they spoke to him.

14 Q Okay. But what is your understanding of how the
15 products are shipped? Is it in a container already?

16 A Well, they're initially shipped on a container.
17 The supplemental materials, I don't think they came in
18 containers. I believe -- I -- I'm not sure how they got
19 there --

20 Q Okay.

21 A -- but it was -- I believe it was through the
22 same shipping agent.

23 Q Okay.

24 A And -- you know, once they arrive in St. Thomas
25 they have to clear. And then there are customs agents

1 that are hired that then get the products from St. Thomas
2 to St. John.

3 Q And were they delivered in a container?

4 A The supplemental products, I don't believe so.

5 Q Okay.

6 A They would have --

7 Q Just boxes?

8 A -- they would have been less than load. Some
9 were. I don't know how the copper was shipped. I didn't
10 personally observe it. But it's -- you know, throughout
11 dependency of the project we ordered lots of materials,
12 and oftentimes it was less than load.

13 Q Is it fair you had no discussions with Ron about
14 missing products?

15 A I had discussions with Ron as to why certain
16 products weren't included when they were supposed to be
17 included.

18 Q And what was his response?

19 A Essentially is, I'm going to get them to you as
20 soon as I can. I didn't really drill down farther than
21 that. I heard that certain things were needed, and -- you
22 know, I did speak to Ron because he had wanted progress
23 payments throughout this, and I said, well -- you know, I
24 gotta make sure all the materials that you need are down
25 there. And that's kind of how the discussions went.

1 Q Uh-huh. Do you recall specifically what
2 products were missing?

3 A Yes.

4 Q What were they?

5 A There wasn't enough copper. There weren't
6 enough clips.

7 Q What --

8 A And there wasn't caulk.

9 Q Okay. How many different types of clips are
10 involved in this roof? Do you know?

11 A Not really.

12 Q Do you know what the clips are made out of?

13 A No.

14 Q Are they a non-copper product?

15 A I think so.

16 Q And what is your understanding of -- are you
17 saying there were no clips sent down or not enough?

18 A Not enough.

19 Q Okay. And how do you know that? In other
20 words, is there a number somewhere as to how many clips
21 were supposed to arrive?

22 A I -- this is what I had been advised by Micah on
23 the site.

24 Q That there weren't enough clips?

25 A There weren't enough clips, and there weren't --

1 that there wasn't enough copper.

2 Q Okay.

3 A And I know at least on two different occasions
4 they had to ship more copper down.

5 Q Okay.

6 A And one of those they put some on a plane, and
7 they flew it down.

8 Q Okay. And these are the thousand-pound rolls
9 you're talking about?

10 A No. No. These are a lot less. The one that
11 was shipped down, I don't know what size it is.

12 Q Just kind of supplemental pieces we're talking
13 about?

14 A Yeah. I mean, they were rolls. They weren't
15 thousand-pound rolls.

16 Q Okay.

17 A And the one probably had a certain weight limit
18 to get on a plane. I -- I don't know.

19 Q Yeah. The copper we're talking about that
20 wasn't in the thousand-pound rolls, do you know how much
21 it cost per whatever it was delivered as?

22 A I -- I'm sure there's documents --

23 Q Okay.

24 A -- addressing that. Off the top of my head, the
25 answer is no. I don't really know right now.

1 Q Are there any liens on the property?

2 A No.

3 Q And is the Lloyd's policy or whatever it was the
4 only policy that's ever existed on the pro- -- on the
5 property since -- since you've owned it?

6 A We no longer have Lloyd's. We have a different
7 homeowners insurance carrier. But that was after all of
8 this.

9 Q Okay. Have there been any claims with the
10 latest homeowners policy?

11 A No.

12 Q Is it difficult to get homeowners coverage
13 there?

14 A I don't know how typical it is. Generally, if
15 you have a loan on the property, you have to insure the
16 lender's interests --

17 Q Right.

18 A -- and if you can't, they put you in a
19 force-placed.

20 Q Okay. What does that mean -- force-placed?

21 A In other words, they buy the insurance for you
22 for the amount of the loan --

23 Q Okay.

24 A -- and charge you whatever.

25 Q Right.

1 A I'm sure you have a similar product in Florida.

2 Q Yeah. Other than this Irma claim were there any
3 other claims made against your property insurer?

4 A I don't believe so.

5 Q You said -- tell me about the excavating. You
6 said there was some excavating that was performed.

7 A Yes.

8 Q Was that an extensive exca- -- excavating job?

9 A I thought it was extensive.

10 Q Okay. Can you tell me in lay terms what -- why
11 it needed to be done or what was done?

12 A The property goes from 110 feet to sea level at
13 an angle. We want to carve out the property to anchor the
14 home. The substrate or the ground was made of -- they
15 call it down there Blue Bitch.

16 Q Okay.

17 A It's a type of granite that requires the large
18 trackhoes with hammers. And no one can really give you an
19 accurate estimation of how long it's going to take.

20 Q Right.

21 A Ours seemed to take a particularly long time.

22 Q Okay. Do you have any flooding issues -- not
23 related to Irma, per se -- but do you find that there's
24 water coming from properties above you?

25 A No.

1 Q Hard rains you don't get extensive flooding or
2 anything like that?

3 A No.

4 Q Has there been any inspection performed that
5 concluded that the Rolath or that sheathing was not
6 installed properly?

7 A I don't think there's ever been a contention
8 regarding that.

9 Q Was there any damage to that product or those
10 products during Irma?

11 A They were covered by copper. So I don't
12 think -- they were not exposed.

13 Q Okay.

14 A So I -- I mean, I would be speculating, but I
15 think the answer is no.

16 Q The main house is composed of what?

17 A I'm not sure what -- I don't understand your
18 question.

19 Q Yeah. The walls, like are they -- is it --

20 A Sure. The home is free-form concrete.

21 Q Okay.

22 A And then certain portions are faced with stone,
23 certain other portions are plaster.

24 Q Any wood products on any of the levels --
25 meaning structurally, not -- and I'm not talking about

1 trusses or things like that, but --

2 A No. It's all concrete.

3 Q No wood frame?

4 A Correct. It's all concrete construction.

5 Q Do you know what the square footage of your lot
6 is?

7 A It's a little over an acre. Like 1.04, I think.

8 Q Other than the add-on was there ever any change
9 order or additional add-ons with Daybreak?

10 A There was a dispute regarding the additional
11 copper costs. And this came down from Barry's analysis.
12 He measured the roof. He told us what was needed. He
13 also told us what the waste factor was. He then contended
14 that the roof was larger than what was measured by him,
15 and that's why he needed more copper, and he wanted us to
16 pay for it.

17 Q Now, when you say he measured it, do you mean
18 Barry was the actual person that measured the roof or one
19 of his people?

20 A We -- we had asked that he come down and verify
21 on-site all measurements. And he represented he did.

22 Q Okay. And the -- tell me about the waste
23 factor. What was your understanding of what it would be?

24 A He -- there's a certain amount of the copper
25 which would be waste because they have to be cut.

1 Q I understand.

2 A And the -- the number that strikes me -- it
3 was -- it was 20 percent, was his number. I mean, I could
4 be off. But I relied on his representation what would be
5 the waste percentage.

6 Q And was there any discussion from him about,
7 listen, the waste factor was higher than predicted?

8 A I don't recall that. I do recall his contention
9 that the amount of square foot the roof was -- which he
10 initially represented and our architect confirmed was
11 either 82- or 8400 -- he then said it was more than that,
12 and that's why we needed more copper, and he wanted us to
13 pay more money.

14 Q Okay. Are you aware of anyone that measured the
15 roof other than perhaps Barry and the architect?

16 A I don't think so. I mean, I'm not sure if Chris
17 did or didn't. It's not a very simple roof.

18 Q Right.

19 A And that's why I went to the architect with CAD
20 and said, hey, what is the square footage?

21 Q When did you do that? Before? Or when Barry
22 brought up that this is more?

23 A Before and after. I mean, we went into this
24 knowing what the number was -- the square footage was.
25 The conversation with Barry before the contract was, you

1 need to verify yourself what the square footage -- do your
2 own field measurements.

3 Q Do you know if there were any measurements of
4 the roof taken by the entity that supplied the roofing
5 itself prior to the copper installation?

6 A I'm not sure I understand your question.

7 Q There was a roof there before the copper was
8 installed; correct?

9 A You mean the wooden roof?

10 Q Yes.

11 A Yeah. That was based upon the CAD drawings.

12 Q Okay. Do you know who the specific workers were
13 who installed that roof?

14 A Yes.

15 Q Who?

16 A Andy.

17 Q Okay. And was Andy -- did Andy ever measure the
18 roof?

19 A I -- I didn't see him. I suspect that he did
20 measurements on the roof.

21 Q Right.

22 A I don't know if he actually measured the entire
23 square footage or not.

24 Q Was his billing ever based on the square footage
25 of the roof?

1 A Time and materials.

2 Q Okay.

3 A He was -- strike that.

4 He was time. We supplied the materials.

5 Q Right. Okay. So if I understand what you've
6 said correctly is Barry measured the roof.

7 Do you know how Barry measured the roof?

8 A I wasn't present.

9 Q Okay.

10 A I don't know.

11 Q And the architect's measurements of the roof
12 were simply from a computer?

13 A Yes. The -- the plans. The --

14 Q I understand. I just want to make sure.

15 The -- the architect or anyone working for the
16 architect was never out there measuring the roof by
17 getting on the roof?

18 A I don't know. I do know that they came out a
19 number of times in the construction to do field
20 measurements. The communication regarding measurements
21 was directly between Andy and the Springline staff. If
22 measurements needed to be obtained, they always said,
23 don't take them off the plans, call us. You know?
24 They're in St. Thomas. As opposed to just figuring it out
25 from the plans what the measurements were supposed to be.

1 Q Who said that?

2 A The architects.

3 Q Do you know if any of the building components
4 other than the roof were performed contrary to the plans?

5 A Yeah. I mean, there were change orders in the
6 field. And then the plans were then modified to
7 reflect --

8 Q Did any --

9 A -- those changes.

10 Q Yeah. Did any of that relate to the roof?

11 A No.

12 Q In other words, if walls were bigger than
13 expected or wider or -- you know, encompass more square
14 footage, the roof would be different than originally
15 planned.

16 A Well, again, there were changes made along the
17 construction process.

18 Q Right.

19 A The roof was really not one of them because that
20 was like the last thing that went on. This was a lot of
21 building it up. And location of windows, doors, walls,
22 things like that may have changed. The outside structure
23 upon which the roof sits I don't think changed.

24 Q What was Barry's contention as to the size of
25 the roof? Was there a specific number?

1 A He came up with something. And he -- I don't
2 believe he was able to justify it. I mean, these
3 questions were asked of him at his deposition, but I
4 haven't looked at his deposition since I took it a long
5 time ago.

6 Q Yeah.

7 A In my opinion, we never received a satisfactory
8 answer as to why he thought that he should get more money
9 for the copper.

10 Q So what was the ultimate conclusion or how did
11 that pan out?

12 A There is a letter laying it out. You know, I
13 wrote him a two- or three- or four-page letter, and I
14 said, here's what I paid you, here's what your bid is --
15 you know, here is what you're claiming you still want.
16 Some of those items were never shipped. I mean, one was
17 like rosin paper or something like that. You know, we
18 didn't use rosin paper because we already had
19 underlayments. And at the end of the day -- and then
20 there was some additional work that needed to be done
21 because they kind of walked off the job, and he wanted
22 like 30- or 40,000. And I said, I think you're only
23 entitled to 22, and I sent them a check -- or 20, whatever
24 it was. And the next thing I knew, he sued us.

25 Q Did he continue doing the work?

1 A He never showed back up. I --

2 Q Yeah.

3 A -- made a request that they return, and then --
4 no.

5 Q Did he provide the copper that was in dispute?
6 In other words, we need more, it's bigger than I thought
7 and all of that.

8 A Yes. He provided that copper.

9 Q Okay. At his own expense? I mean, you didn't
10 pay for additional copper, that's what I'm gleaning.

11 Is that --

12 A I paid for some. I don't recall specifically.

13 Q Okay. Why would you pay for any if it was your
14 contention that the roof is what it is, and there
15 shouldn't be any extra?

16 A Barry had represented during dependency of
17 project he needed additional copper. I didn't really
18 drill down. He told me what it was -- you know, and I
19 said fine.

20 Q Well, was that part of the disputed amounts he
21 said you didn't pay when he filed the Superior Court
22 case?

23 A I -- I don't know. He believed that there --
24 you know, earlier on I said this happened twice, may have
25 been more. You know, after I had paid him for the

1 additional copper, then he said he needed more copper than
2 that. And I believe I -- at that point I said, no, I
3 don't think I'm going to pay for this. But, again, I
4 wrote him a letter laying this all out.

5 Q Irma hits.

6 Do you all -- when do you leave the island after
7 Irma?

8 A Two-and-a-half months later.

9 Q Okay. Was that the first time you could leave?

10 A Yes.

11 Q And by what process did you leave? Like you
12 normally would? Or was there some bizarre way you had to
13 leave?

14 A It's when Americans started bringing planes in,
15 is when we left. The airport was destroyed --

16 Q Okay.

17 A -- in St. Thomas.

18 Q Okay.

19 A So there was a several month period of time that
20 commercial flights were not available. Private planes or
21 cargo planes would come in.

22 Q Okay. But you waited until a commercial plane
23 was available?

24 A Yeah. We didn't organize a -- or charter a
25 flight.

1 Q Right.

2 A We -- we waited.

3 Q Okay. And is there any ferry system that you
4 could have utilized?

5 A Ferry to where?

6 Q I don't know.

7 A No.

8 Q Okay.

9 A Because two weeks after Irma hit, Maria hit. It
10 hit Puerto Rico more. And there was -- there are -- were
11 ferry services between Irma and Maria. They were
12 evacuating people to Puerto Rico until Maria hit.

13 Q Right.

14 A And then Puerto Rico was pretty much
15 destroyed --

16 Q Yeah.

17 A -- with Maria.

18 Q Yeah. Did Maria hit St. John?

19 A Yeah, we had Maria. I think it scurried south
20 of us.

21 Q From when you owned the property up to Irma were
22 there any named storms that hit St. John?

23 A Yeah. I recall Otto. A light 2, maybe.

24 Q Okay.

25 A Category 2.

1 Q Where was your home in construction?

2 A We pretty much were where we were at. I mean,
3 the copper roof wasn't there, but --

4 Q Did Otto cause any damage?

5 A No.

6 Q Did any storm cause any damage other than Irma,
7 including Maria?

8 A Yeah. I don't think we really got dam- -- I'm
9 sitting here thinking. I don't think we really got damage
10 from Maria. It was more of a rain event for us. At least
11 where we were. The damage we had was from the -- the
12 winds from Irma.

13 Q What was the year of Maria?

14 A It was 2017. It was a couple weeks after Irma.

15 Q If -- if Maria involved rain was there any water
16 intrusion from Irma via the roof -- I'm sorry -- from
17 Maria via the roof?

18 A No. My recollection was we had water intrusion
19 from the rain through the doors --

20 Q Okay.

21 A -- onto the stone floors, which --

22 Q Into the main house?

23 A The gatehouse. Because we were --

24 Q You were in the gatehouse?

25 A -- we were in the gatehouse, yeah.

1 Q How about the main house? How did it do during
2 Maria?

3 A I think it did fine. I mean, there wasn't
4 anything of real concern. I mean, I'm not going to sit
5 here and say there was no water intrusion, but it was
6 nothing that caused us any concern.

7 Q Was there any water intrusion that you're aware
8 of through the roof in the main house due to Maria?

9 A Not that I'm aware of. But, again -- you know,
10 the amount of water or whatever or evidence of water was
11 minimal.

12 Q Yeah. What is your understanding as to -- you
13 had this roof that existed, you were adding copper to it.
14 Were there things that needed to be cut into the
15 roof to install the copper?

16 A I'm not sure I understand. What do you mean by
17 cut into the roof?

18 Q I'm trying to understand if the existing
19 under-roof, if we can call it that, was altered by
20 placing the copper on it. In other words, did they have
21 to cut through it at any points to secure the copper
22 roof?

23 A Not to my knowledge. I know that Chris had
24 installed battens, and in between the battens he had put
25 insulation. And the copper was to be secured to the

1 battens.

2 Q When did Chris perform the battens in relation
3 to the Daybreak work?

4 A Right before they came. And he may have been
5 still installing them when they started.

6 Q Were the battens part of the architectural
7 plans?

8 A I don't think so.

9 Q Were the battens solely to assist in installing
10 the copper roof or did they serve any other purpose?

11 A I -- I believe it was for the installation.

12 Q Right. And as I understand it -- or let me --
13 let me state it differently.

14 Were there any plans ever created or developed
15 related to the installation of the copper roof?

16 A No. Other than field sketches by Barry, things
17 like that.

18 Q Okay. Is there any reason the architect wasn't
19 utilized for that purpose? Like, hey, we're adding this
20 copper roof, can you draft plans for that?

21 A My understanding is Barry didn't believe it was
22 necessary.

23 Q Did you ever discuss that with your architect,
24 whether or not Barry thought it was necessary?

25 A We probably had discussions. But -- you know,

1 Barry represented, hey, I'm a copper roof guy, I can
2 design, install, and build this. And we said okay.

3 Q So did the architect agree that no plans were
4 necessary or advisable?

5 A I don't know if I actually posed that question.

6 Q Were they ever consulted regarding installation
7 of a copper roof -- the architect?

8 A Specifically, I don't believe they were. They
9 were aware of it.

10 Q And why did you switch from Barefoot Architect
11 to Springline?

12 A Well, after we paid a stipulated sum amount,
13 which was supposed to cover all the plans -- which I
14 thought was a lot of money -- two days later he sent me a
15 bill for twice that amount. Which was a significantly
16 more amount of money.

17 Q Who did? Springline or --

18 A No --

19 Q -- Barefoot?

20 A -- Barefoot. And the plans were not complete.
21 And I felt that that was not an individual we wanted to
22 continue doing business with. So we realized at that
23 point we needed to find a new architect.

24 Q What plans specifically were Barefoot preparing?

25 A The gatehouse and the studio and the beach bar.

1 He had plans for the main house, but we ended up not using
2 those. In fact, we scrapped them. We brought Springline
3 in, drew all new plans, and then we excavated because the
4 footprint needed to be changed. And then we proceeded to
5 build.

6 Q Why were the plans scrapped from Barefoot
7 regarding the main house?

8 A Number one is is that they were incomplete, and
9 there was a question whether or not they could actually be
10 prepared or the structure would be appropriate. There was
11 no structural issues. The house has a cantilevered pool
12 off the main level, and he had nothing there how to pour
13 or secure a cantilevered pool. And, in fact, we had a lot
14 of challenges with him.

15 He didn't put electrical in because he said it's
16 easier just to chip it in afterwards, which we found out
17 really is not the case. But suffice it to say that we
18 had disagreements regarding the scope of the plans he'd
19 prepared, and the fact that he wanted two to three times
20 more than what we had already paid him, which was
21 represented to be, at the time we paid him, all that we
22 needed to pay.

23 Q Was it his contention that he'd completed a full
24 set of plans?

25 A No. He never said he did.

1 Q Did he -- did his plans include the roof on the
2 main house?

3 A We didn't build the main house with his plans.

4 Q I know. But did it -- there were main house
5 plans, you said, that were scrapped; correct?

6 A That is correct. It had a roof, but we didn't
7 use those.

8 Q I know. But did his plans include a roof?

9 A Yes.

10 Q Okay. What type of roof?

11 A I don't recall.

12 Q Was there anything about copper roofing in his
13 plans?

14 A I'm not sure.

15 Q Was there a litigation between you and Barefoot?

16 A Yes.

17 Q In what court?

18 A District Court, Virgin Islands.

19 Q What was the outcome of that?

20 A His lawsuit was thrown out. And our
21 counterclaim, which had previously been dismissed, was
22 reinstated by the Third Circuit. And he paid us a
23 monetary settlement, which consisted of the amount of
24 money we paid to Springline for bringing in a new
25 architect.

1 Q What was your claim against him?

2 A His plans were unusable, and we had to bring in
3 a new architect, in essence.

4 Q And that resolved via settlement or a trial? Or
5 what happened?

6 A His claims were thrown out on summary judgment.

7 Q Okay.

8 A He -- he went up to the Third Circuit, published
9 opinion. They affirmed the District Court and reinstated
10 our counterclaim.

11 Q And so what happened with the counterclaim?

12 A It resolved in a settlement.

13 Q Okay.

14 A And then we got a judgment for attorney's fees.
15 And then he promptly took the assets of Barefoot overnight
16 and changed them to a different entity.

17 Q Okay. Is that still ongoing, the --

18 A No. We've let it go.

19 Q Okay. Was there -- do you know what the
20 measurements were of the main house roof under the
21 Barefoot plans that were scrapped?

22 A No.

23 Q Were the Barefoot plans ever provided to
24 Daybreak?

25 A No.

1 Q Were the Springline plans provided to Daybreak?

2 A I -- I believe they were. Because part of his
3 contract has some of the roofing portions.

4 Q From Hurricane Irma to the present, how often
5 are you -- how often have you been in the Virgin Islands
6 at your residence?

7 A I -- I'm there frequently. No particular
8 schedule.

9 Q How about your wife?

10 A Frequently. No particular schedule.

11 Q And are you there both together and separately?

12 A Yes.

13 Q Has anyone else -- has anyone else stayed
14 overnight at the property other than you two and Chris?

15 A Yeah. We -- we have friends that have come down
16 and stayed with us.

17 Q Okay. When's the last time you've had friends
18 come down and stay with you?

19 A Oh, I don't recall specifically. I can't recall
20 specifically.

21 Q Any time in 2024?

22 A I don't think so.

23 Q Certainly not any time in 2025. If you can't
24 remember that -- it's only in March.

25 A Yeah. Well, I'm not sure I remember everything

1 from even yesterday.

2 Q Yeah.

3 A I'm being facetious.

4 Q Yeah.

5 A No, I -- we haven't had friends stay with us in
6 2025.

7 Q Okay. Have you celebrated any events or
8 significant events -- birthdays, anniversaries, things
9 like that -- with friends down there?

10 A Oh, yes.

11 Q When's the last time?

12 A Year or two.

13 Q Okay. And what was it?

14 A I don't think it was a birthday or anniversary,
15 but it was just -- you know, I don't know if I'd call it a
16 special occasion or not, but -- you know, we -- we tend
17 to -- we have friends down there, and we tend to get
18 together.

19 Q That live down there?

20 A Oh, yes.

21 Q Okay. What is the -- what is the most number of
22 people you've hosted there? I don't mean for a few
23 hours, I mean overnight.

24 A I don't know. Couple. Three or four.

25 Q Okay. Is there any way to track when you've

1 been there? Like if you were asked to do that, how would
2 you do it?

3 A I don't know.

4 Q Are there times where you travel to the
5 Virgin Islands and you don't stay there?

6 A I mean, there have been times I had to fly in
7 for a hearing, and I go to St. Thomas, and I fly right
8 out.

9 Q Yeah.

10 A That's happened maybe a half a dozen times since
11 I've been admitted. But, generally, I go to the house.

12 Q Right. How many cases do you have in the
13 Virgin Islands?

14 A My caseload and type of cases, things like that,
15 no, I'm not going to answer. That's privacy.

16 Q Why is that private?

17 A Our practice and the number of cases and the --
18 you know, those type of things, has nothing to do -- it's
19 privacy. You can mark the record. I will not answer.

20 Q All right. I'm trying to understand why.

21 These cases are a public record. In other
22 words, you're an attorney of record, they're public
23 records. Wouldn't --

24 A Some cases I file, some cases I don't file. The
25 type of cases, number of cases, my clients are --

1 Q How many filed cases do you have in the
2 Virgin Islands?

3 A I don't know.

4 Q How often do you travel to the Virgin Islands
5 for work versus nonwork?

6 A I'm generally working when I'm down there.
7 Unfortunately the nature of our business is we usually
8 work most days.

9 Q I know. But I could be visiting Tucson, Arizona
10 and work but not be here for work. So...

11 A Yeah. Again --

12 Q I'm trying to sep- -- I'm trying to separate
13 when you go down there for pleasure versus going down
14 there for work.

15 A Yeah.

16 Q So I don't mean going down there and -- you
17 could be working on a California case, but that doesn't
18 necessarily require you to be in the Virgin Islands.

19 A My trips are usually combined business and
20 pleasure.

21 Q Okay. And do you fly commercially every time
22 when you go down there?

23 A Most times, yeah.

24 Q So there would be a record of you purchasing a
25 commercial flight down there; correct?

1 A I suspect there would be.

2 Q Okay. Same for your wife?

3 A I suspect there would be.

4 Q And your wife's a lawyer also?

5 A Yes.

6 Q And what type of practice? Is it the same?

7 A Yeah. She's more retired than actually actively
8 practicing these days.

9 Q So she's smarter?

10 A I would agree on that on the record.

11 Q What type of practice did she perform?

12 A She did predominately what I did. And prior to
13 that she did insurance defense, maritime.

14 Q Okay. When you fly to the Virgin Islands -- or
15 when you travel to the Virgin Islands is it always by
16 air?

17 A Yes.

18 Q Through St. Thomas?

19 A Yes.

20 Q St. Thomas requires a passport; is that correct?

21 A No.

22 Q What do they require?

23 A It's part of the United States. A driver's
24 license.

25 Q Okay. Has that always been the case?

1 A A driver's license? There was a court challenge
2 a number of years ago. They used to require a passport,
3 and then there was a case you don't need a passport.

4 Q All right. When was that?

5 A Oh, years ago. Now, whether it's changed or
6 not, I don't know. I just use my Global Entry card for my
7 identification. So...

8 Q Okay. Well, give me an estimate of how often
9 you travel there in any given year.

10 A Well, this year I've been down once already.
11 I'm going down in about a week, week-and-a-half.
12 You know, I'm sure I'll be there down there three or four
13 or five more times this year.

14 Q How about 2024?

15 A Probably half a dozen.

16 Q In 2023?

17 A I'd have to -- I don't know off the top of my
18 head. I travel a lot.

19 Q So do I, but I know where I travel.

20 How about around COVID, 2020? Were you down
21 there at all?

22 A I stayed away for a year or two.

23 Q Right. It was pretty buttoned up during COVID,
24 wasn't it?

25 A I don't know who -- the term buttoned up. I --

1 I don't nec- -- you know, again, I wasn't down there.

2 Q Right. Well, when I appeared in this case, I
3 don't think they were -- they certainly weren't
4 encouraging people to come down there.

5 A When did you appear? 2023?

6 Q No. Before that. Well before that. Before
7 COVID.

8 A Okay. I -- I don't know. I can't speak to
9 that.

10 Q The courts -- were the courts operating normally
11 through COVID?

12 A You know, there --

13 Q In the Virgin Islands, I mean.

14 A Yeah. There were emergency orders. You know?
15 I wasn't required to show up for any appearances.

16 Q Right.

17 A Whether they were allowing people into the
18 courthouses or not, I -- I think there was some
19 prohibition, but I don't specifically recall.

20 Q Okay. So what timeframe do you recall avoiding
21 the Virgin Islands due to COVID?

22 A It was about a year or two.

23 Q 2020 into 2021?

24 A Whenever COVID was, yeah.

25 Q My recollection is it was March of 2020.

1 A Okay.

2 Q How often does Sarah go to the Virgin Islands --
3 let's say this year?

4 A I don't think she's been down this year.

5 Q How about to 2024?

6 A I'm not sure.

7 Q You don't have any estimate whether it's over
8 10 times or under 10 times?

9 A Oh, I think it's under 10 times. The -- I --
10 I'm not sure.

11 Q Okay.

12 A There are times that I travel, and she travels,
13 and...

14 Q All right. Do you know how many times she's
15 traveled there without you in 2024?

16 A No. I don't think there are many, if any. I'm
17 not sure.

18 Q When you go down there currently, where do
19 you -- what structure do you stay in?

20 A We stay in the gatehouse.

21 Q And is there a reason you stay in the gatehouse
22 versus the main house?

23 A The gatehouse is completely done, and -- you
24 know, it's comfortable.

25 Q Is the plan to -- for that to continue? Once

1 construction's completed do you plan on continuing to
2 stay in the gatehouse versus the main house? I'm just
3 trying to understand.

4 A Probably not.

5 Q Okay. And is there a -- in your mind, a
6 contemplated completion date for the main house?

7 A I would like it --

8 Q A wish list, any of that?

9 A Yeah. I would like it to be soon. What that
10 means, I'm not sure.

11 Q Is construction -- what's the construction like
12 generally down there right now? Are there plenty of
13 workers or is it like other --

14 A You know --

15 Q -- parts of the U.S. that have a reduction in
16 the labor force and the construction industry?

17 A I -- I think there's a challenge with the
18 immigration issues going on in our country right now that
19 will affect or affect St. John. Because -- you know, most
20 of the workers have to come over from St. Thomas. And as
21 in the past, there have been immigration round-ups. I
22 don't know what's happened in the last two to three weeks,
23 but judging what's happening in the country, I suspect
24 there are issues.

25 Q Let's go before that. Before the current

1 president.

2 What was the status of the labor issues there
3 before that? In other words, are there -- you know, in
4 the states at least, clients I deal with complain about
5 being un- -- unable to find enough workers.

6 A Yeah.

7 Q They have plenty of work, they don't have enough
8 labor force. So...

9 A There are -- you know, again, I don't have a lot
10 of personal knowledge other than the fact I can say that
11 there seems to be -- you know, good finish work is hard to
12 come by down there. You generally have to bring the
13 workers in. For technical work like AC and things like
14 that, if you want it to work, you need to find somebody
15 else. So de- -- depending on the level of workers, there
16 seems to be a number of -- you know, if you need concrete
17 poured, yeah, that's usually not a problem.

18 Q The -- the gentleman you're currently working
19 with, tell me his name again.

20 A I'm not sure if I have -- what do you mean
21 gentleman who I'm working with?

22 Q Isn't there someone you're currently having -- I
23 thought you said there was someone that was going to be
24 working on the property.

25 A Oh, yeah. There is -- in terms of a contractor

1 I've been talking to --

2 Q Yeah.

3 A -- it's Lanny.

4 Q Okay. So what's Lanny's crew like? Do you
5 know?

6 A Lanny has -- he seems to have multiple crews --
7 you know, that do certain aspects. But he does seem to be
8 able to complete large projects.

9 Q That's Blue Bay Builders we're talking about?

10 A Blue Bay something, yeah --

11 Q Right.

12 A -- Builders, Construction, yeah. It's Blue Bay.

13 Q So as far as you know, Lanny doesn't have those
14 issues with labor?

15 A I suspect he has issues because there's always
16 issues -- I shouldn't say always. There are usually
17 issues on St. John with labor.

18 Q Yeah.

19 A So I suspect he has issues. How it's affected
20 him, I haven't had that discussion with him.

21 Q Do you stay -- since Irma, when you go to the
22 Virgin Islands, do you always sleep in the gue- --
23 guesthouse?

24 A Yeah.

25 Q I'm sorry. The gatehouse?

1 A The gatehouse, yes.

2 Q Yeah. Never the main house?

3 You're shaking --

4 A Yeah.

5 Q -- your head, but...

6 A No. I'm sitting here thinking. You know?

7 Q Yeah.

8 A But, no, I would say the gatehouse.

9 Q Okay. Are there furnishings in the main house?

10 A Not really.

11 Q No beds, couches --

12 A Correct.

13 Q -- anything like that?

14 And was there ever furniture in the main house?

15 A No, I don't believe so.

16 Q The name gets me, but although it's called the
17 gatehouse, that's been your living arrangement there;
18 correct?

19 A Well, it's where we generally stay, yes.

20 Q It's where you sleep, cook, clean -- not
21 clean -- where you sleep, eat?

22 A Generally, yes.

23 Q Did Daybreak do all of the work on the roof or
24 did they have any subcontractors?

25 A I don't believe they had subcontractors.

1 Q Since Irma, who has been on that roof?

2 A Well, the folks from Dahill, Art Sanders, Chris,
3 and myself. I'm not sure if anyone else has been up
4 there.

5 Q What's Art's company?

6 A It was -- well, he's retired now. It's
7 Hoffmann Architects.

8 Q I thought you mentioned someone else. You
9 mentioned Art, yourself, Chris. And there was a
10 company --

11 A Dahill.

12 Q Dahill.

13 And Art was -- what was his role or purpose of
14 being on the roof?

15 A He was a consultant expert.

16 Q You say was. Is he still?

17 A Yes, he is.

18 Q Okay.

19 A He's our consultant expert.

20 Q Anyone else that's been on the roof?

21 A I mentioned the Dahill folks. I don't remember
22 their names.

23 Q Okay.

24 A Chris and myself.

25 Q That's it?

1 A To my knowledge. Yeah, I don't know. We may
2 have -- me -- we periodically have people do wood
3 staining, and there's some rafters that probably were
4 stained. I don't know whether they accessed them by
5 scaffolding -- they usually do.

6 Q Okay. What kind of wood is that?

7 A Either pressure-treated or mahogany.

8 Q Okay.

9 A And then there's Sheetal applied on it, which is
10 refurbished every two years or so.

11 Q Do you know who else from Hoffmann Architects
12 other than Art might have been on the roof?

13 A No. Art was the only one I dealt with from
14 Hoffmann Architects.

15 Q Do you know if he was the only one on the roof?

16 A While I was present, the answer is, yeah, he was
17 the only one.

18 Q And has he only been on the roof while you were
19 present?

20 A He may have been there -- you know, a time -- I
21 may have left town or left St. John, he may have been
22 there. But, generally, yeah, I was usually there when he
23 was there.

24 Q And when was he there?

25 A He was there in 2018.

1 Q Is that it?

2 A I think that was the last time he was there,
3 yes.

4 Q When's the last time Chris was at the property?

5 A May of 2024.

6 Q Any plans for Chris to go to the property?

7 A Chris is officially retired.

8 Q Does that mean, no, there's no plan for him
9 to --

10 A Well, I'm sure he'll visit us when he's on
11 island. But, no, there's no plan to have him come back to
12 work.

13 Q And Dahill, when's the last time they were on
14 the roof?

15 A 20- -- 2018.

16 Q Do you know if any drones were ever used to
17 photograph the roof after Irma?

18 A Yes.

19 Q Yes is the answer that -- yes, they were?

20 A Yes.

21 Q Who conducted the drone usage?

22 A Steve Simonsen.

23 Q Who's that?

24 A He's a photographer on island.

25 Q Is he the only one that's used drones, to your

1 knowledge, to take photographs?

2 A It's the only one we've requested.

3 Q Yeah. That's why I said to your knowledge.

4 A Yeah.

5 Q When was that?

6 A Following Irma. Still probably -- probably late
7 2017.

8 Q Is that the only time he's done it?

9 A At my request, yes.

10 Q To your knowledge?

11 A Yeah. I mean, I -- I do know that he
12 publishes -- you know, photographs and things like that.
13 So I don't know if he's flown drones in the area.

14 Q Yeah.

15 A But...

16 Q I -- I don't mean that. I mean that you or your
17 wife or -- someone that you've requested to do it over
18 your property.

19 A Yeah, that was -- it was just once.

20 Q Other than Chris are there any other family
21 members who have visited the -- the home since Irma?

22 A No.

23 Q Are there any other contractors that have worked
24 on the property that we haven't discussed?

25 A You mean like general contractors?

1 Q Right.

2 A No.

3 Q Are there any other roofing contractors that
4 have been involved in either bids or discussions about
5 the property other than the ones we've talked about?

6 A No.

7 Q Has the roof been repaired to any extent since
8 Irma?

9 A Yes.

10 Q How so?

11 A Dahill had -- there were two -- I guess Art
12 refers to them as tin knockers. I guess that's -- they
13 were down for about a week performing --

14 Q Tin -- what is that? Tin mocker?

15 A Tin knockers.

16 Q Tin knockers.

17 Was their repair company hired by Dahill?

18 A No. They were Da- -- they work for Dahill.

19 Q Okay. I'm trying to understand.

20 Is that a separate company, Tin Knockers?

21 A No. That's the job description.

22 Q Okay.

23 A They're people that -- you know, bend and form
24 and repair metal roofs.

25 Q So what did they do as far as repairs?

1 A There were areas that they patched. There were
2 areas they replaced. There was areas they knocked or --
3 you know, tin knocked, whatever you call it, to straighten
4 out --

5 Q Yeah.

6 A -- you know, things like that.

7 Q Were -- did they add any clips to the areas
8 that --

9 A I -- I --

10 Q -- were removed?

11 A -- I don't think -- you know, I don't think they
12 actually disassembled. I -- I do believe they somehow
13 secured certain portions. I don't know how they did it.

14 Q Do you know what the options are to secure other
15 than clips?

16 A I'm sorry. I don't understand your question.

17 Q You said you think they secured portions, but
18 you're not sure how.

19 My question is are you aware of ways to secure
20 the copper roof other than using clips?

21 A Not personally, no.

22 Q Okay. Whoever dissembled -- disassembled the
23 roof and determined or concluded that there were no
24 clips, were clips ever added in those areas?

25 A I don't know.

1 Q So what's the current state of the roof?

2 A It's there. Present. I mean, I'm not sure I
3 understand your question.

4 Q Well, you had someone do repairs to it.

5 Are there -- is there a need for additional
6 repairs?

7 A I've been advised that, yes, the pans need to
8 be -- the recommendation is it's easier to replace it than
9 repair it. And that's something that is a matter of
10 expert testimony that I really don't have personal
11 knowledge of. And when we designate our Rule 26 experts,
12 they will have a report addressing that issue. And --

13 Q Did you say the recommendation is replacement is
14 better than repair?

15 A It's -- it's -- it's been explained to me --
16 and, again, I'm no roofing expert -- that the cost
17 involved in disassembling is going to be more -- and then
18 reusing -- is going to be more than replacing.

19 Q What is your understanding as to whether any of
20 the copper that exists can be reused in any form?

21 A Not really. I asked that question. And it --
22 is has to be annealed, which I understand is a heating,
23 before it can be moved when it's been up there. And
24 there's a problem with doing that. And the short answer
25 is they told me it's cheaper to replace than repair.

1 Q And what have you been told in terms of the cost
2 to replace?

3 A There was an estimate for just the -- in 2018 of
4 400 grand or so. But that did not include the
5 mobilization, scaffolding, and all -- whatever else is
6 necessary. I don't know what the cost is in today's
7 dollars although I'm fearful that prices have gone up
8 significantly. And I don't know to what extent copper's
9 going to be affected by tariffs. Because I don't think
10 there's a lot of copper being produced in the
11 United States.

12 Q Is there any reason you didn't go forward with
13 replacement?

14 A We got involved in other projects, and -- you
15 know, I'm looking for the money to do it.

16 Q Okay. What other pro- -- projects did you get
17 involved with?

18 A Well, we -- we bought some other properties.
19 And I don't necessarily think that our property situation
20 is really appropriate or relevant. Privacy issues. But
21 suffice it to say that we've had other projects that have
22 kept us involved.

23 Q You mean real estate projects?

24 A Yes.

25 Q Construction projects?

1 A Yes.

2 Q You have a home in the Virgin Islands and in
3 San Diego.

4 Are there other projects ongoing?

5 A Not ongoing right now.

6 Q Do you have other properties?

7 A Yes.

8 Q Where?

9 A A full listing of my properties really is a
10 pr- -- matter of privacy.

11 Q Okay. Well, what can you tell me? I'm not
12 looking for addresses or...?

13 A We have other homes. I'll just say that.

14 Q Okay.

15 A I mean, if you want to go off the record, I can
16 talk to you about it off the record. I'm not going to
17 talk about it on the record.

18 MR. COSBY: Okay. Let's go off the record.

19 (Off the record at 1:26 p.m.)

20 (On the record at 1:27 p.m.)

21 BY MR. COSBY:

22 Q I asked you earlier about how much time you
23 spent in the Virgin Islands.

24 What do you consider your primary residence?

25 What location?

1 A That's a hard question to ask. I'm domiciled in
2 California.

3 Q Okay.

4 A Our office is in San Diego. Our main home is in
5 San Diego. I spend quite a bit of time in Tucson, though.

6 Q Okay. So you can't say that San Diego is where
7 you spend most of your time?

8 A I don't think -- the -- the answer is yes. I --
9 looking at this past year, I wouldn't say it's -- yeah.

10 Q Yes, what?

11 A Yes, I'm --

12 Q Yes --

13 A -- not -- it's not primarily where I'm at. I'm
14 there a significant portion of time --

15 Q Uh-huh.

16 A -- on a monthly basis. I'm back and forth a
17 lot.

18 Q Can you give me a percentage of the time you
19 spend in the Virgin Islands --

20 A I'm down --

21 Q -- on average?

22 A Yeah. I'm down there maybe six times, eight
23 times a year. Three days to a week each time.

24 Q Okay. That helps.

25 And Sarah, what would you estimate for her?

1 Similar or...?

2 A Less.

3 Q Less?

4 A She's less.

5 Q Okay. And barring things like Hurricane Irma,
6 what was the plan as far as the time you intended to
7 spend down in the Virgin Islands? Is it about -- is that
8 about what you were hoping or...?

9 A I think we were probably going to spend more
10 time. I mean, absent Hurricane Irma, everything would
11 have been completed.

12 Q Right. But -- and that's separate. But assume
13 Irma didn't happen and everything was complete. And I'm
14 trying to get an understanding of what --

15 A We -- we would --

16 Q -- the mindset was.

17 A Yeah. I mean -- you know, a couple weeks down
18 there, and then I want to go somewhere else. Couple weeks
19 down there, I want to go somewhere else.

20 Q Right.

21 A So it's not someplace where we go and we spend
22 months --

23 Q Right.

24 A -- at a time.

25 MR. COSBY: Let's go off the record.

1 (Off the record at 1:29 p.m.)

2 (On the record at 1:29 p.m.)

3 BY MR. COSBY:

4 Q You said your wife's retired.

5 How long -- do you have a retirement date that
6 you have in mind or...?

7 A I don't know.

8 Q Okay. Is -- is there a plan once you retire as
9 far as where you'd like to spend most of your time or
10 live?

11 A Not specifically, no.

12 Q Okay. When you are in San Diego and you travel
13 to the Virgin Islands, tell us how you do that --

14 A Well, since Irma --

15 Q -- generally.

16 A -- I have to spend the night in Miami because
17 American doesn't have flights. By the time I get to
18 Miami, the last flight to St. Thomas has left.

19 Q Right.

20 A So I spend the night there, and then I fly in
21 the morning.

22 Q How about the reverse?

23 A I can catch -- I can make it back the same day
24 because of the time zones.

25 Q Right.

1 MR. FRIEDBERG: You know, let's go off for a
2 second.

3 (Off the record at 1:30 p.m.)

4 (On the record at 2:06 p.m.)

5 BY MR. COSBY:

6 Q All right. We're back after a quick lunch
7 break. We were just talking off the record about ACs.

8 Do you -- do you have an HVAC system?

9 A Oh, yes.

10 Q Okay. In all structures on the property?

11 A We do now.

12 Q Okay. How long have you had that?

13 A Well, the gatehouse, studio, the garage, the
14 beach house have had AC a long, long time. Many, many
15 years. Last year -- and then the guesthouse AC was
16 installed about two years ago, three years ago. And then
17 last year we had the ACs installed for the rest of the
18 property.

19 Q Okay. Any issues with the ACs?

20 A No. Well, I take that back. Compressors last
21 about four or five years there, then you have to replace
22 them --

23 Q Yeah.

24 A -- because of the harsh environment.

25 Q Yeah.

1 A So, yeah -- I mean, there are issues with ACs
2 that they don't last as long as they last stateside.

3 Q Yeah. Close to Florida levels, but maybe not
4 that quick.

5 A I don't know what Florida levels are. So...

6 Q Probably don't get the -- the life you do in
7 other areas, but who knows. Everybody's got some weather
8 issue to deal with.

9 All right. Let's start going over some
10 documents. I've marked as Exhibit 1 the -- what I
11 believe to be your counterclaim in the Superior Court
12 case against Daybreak and Barry Huber.

13 Can you take a look at that and just confirm
14 that that's what that is? I think it's also your answer
15 to his complaint.

16 A Right. I just haven't seen these documents for
17 a number of years --

18 Q Yeah --

19 A -- just give me a moment.

20 Q -- take your time.

21 A Yeah.

22 Q That's correct?

23 A Yeah. That's the answer and counterclaim,
24 third party claim.

25 Q One of the -- I had highlighted some portions.

1 One of the parts of the counterclaim indicates
2 that Daybreak walked off the job prior to the final
3 walk-through and left certain portions of the roofs
4 uncompleted.

5 What portions were left uncompleted?

6 A I think they dealt with the gatehouse. Yeah.

7 Q Then you say, as a result of counterdefendants'
8 conduct in failing to complete their job, the roofs leak
9 and have resulted in damage to counterclaimants' home.

10 Which roofs were leaking as referenced there?

11 A Primarily the gatehouse roof.

12 Q But what else?

13 A That is the one that comes to mind.

14 Q It says, counterclaimants have been damaged in a
15 sum in excess of 75,000 for necessary expenses incurred
16 to complete the roof installation.

17 Was the roof installation completed at any time
18 after this?

19 A Yes.

20 Q And who completed it?

21 A Chris did a certain portion of it.

22 Q Anyone else?

23 A I don't think so.

24 Q And what -- what was the charge by Chris to
25 complete it?

1 A I -- I don't recall. Chr- -- Chris is paid --
2 you know, hourly without necessarily specifying what
3 his --

4 Q Do you know what his hourly rate is -- or was?

5 A I think it was 40 an hour. I think.

6 Q And do you know how long it took him to complete
7 it?

8 A No.

9 Q And he was the only one involved in any
10 completion of the roof installation?

11 A Well -- you know, I -- he probably had a few
12 guys working with him. But -- you know, again, I --

13 Q Meaning Chris or his workers?

14 A Yeah. Yeah.

15 Q Did Chris ever have to purchase any more copper?

16 A Not to my knowledge.

17 Q Did he have to purchase any materials? Or were
18 those still present?

19 A I don't know. He might have.

20 Q Another paragraph, 16, in the counterclaim
21 indicates, pursuant to the contract entered into between
22 counterclaimants and counterdefendants, counterdefendants
23 agreed to manufacture and install the standing seam
24 copper roof of counterclaimants' home in accordance -- I
25 think it should say with -- the Revere Copper & Common

1 Sense & SMACNA and to comply with the applicable standard
2 of the industry in the manufacture and installation of
3 the standing seam copper roof and impliedly warranted
4 that the manufactured roof panels were of merchantable
5 quality and were fit for their intended purpose, namely
6 as watertight roof for counterclaimants' St. John home.

7 What do you know about the Revere Copper &
8 Common Sense? Anything?

9 A No. No.

10 Q Okay. Do you know what the SMACNA is?

11 A Not off the top of my head. I suspect at one
12 point in time I probably reviewed it.

13 Q Is it your contention that in our case with
14 regard to the main house that Daybreak did not comply
15 with the standards of Revere Copper & Common Sense?

16 A The allegations are a breach of contract that
17 are set forth. Specific cleats were called for with a
18 certain spacing, and I've already testified where there
19 were no cleats on the east side. And it's a breach of
20 contract claim. It's not a warranty.

21 Q That's not my question.

22 Is it your contention that he did not comply
23 with the Revere Copper & Common Sense?

24 A I don't -- I don't know.

25 Q Okay. How about the SMACNA?

1 A I don't know.

2 Q Do you know if either of those standards or
3 entities discuss the clip spacing or clips at all?

4 A I don't know.

5 Q Do you know what the standard of the industry is
6 in clip spacing for a copper roof like this?

7 A I know what was agreed on. That's the extent of
8 my knowledge.

9 Q Okay. Separate and apart from what was agreed
10 on, do you know what the standard is in the industry?

11 A No.

12 Q Is that your contention in our Federal District
13 case? Not that he didn't conform with the standards of
14 the industry, simply that he didn't do what was in the
15 contract?

16 A Just one cause of action for breach of contract.
17 The contention is is that the contract specifically called
18 for cleats at a certain spacing. He failed to provide
19 them.

20 Q And that the failure to provide them caused the
21 roof to become damaged --

22 A Correct.

23 Q -- in Hurricane Irma?

24 A Correct.

25 Q Does that boil down -- does that accurately

1 summarize the claim?

2 A Well, in essence, yes. I mean, it's a
3 straightforward, simple, one cause of action complaint for
4 breach of contract.

5 Q Does the claim of negligence by installing
6 flashing over the plaster and the installation of copper
7 panels have anything to do with the claim in
8 Federal District Court?

9 A It has nothing to do with the main roof.

10 Q I'll put these over here.

11 Just so we have it for completeness, this looks
12 like the original complaint that was brought against you
13 in the Superior Court that I've listed as Exhibit 2.

14 Take a look at that, and let me know if you
15 agree.

16 A Yeah. Appears to be it.

17 Q Okay. You agree that the Superior Court action
18 that resolved also included a cause of action for breach
19 of contract; correct -- among others?

20 A It -- it -- it may have. I would have to go
21 back and look at it. If there's a claim in there for
22 breach of contract, okay.

23 Q Is that a yes?

24 A There is a claim in there for breach of
25 contract.

1 Q Okay. And I'm showing you Exhibit 1 again.

2 A Understood.

3 Q Exhibit -- well, before we get there.

4 What is your understanding of where in the roof
5 that the clips needed to be?

6 A Where the pans were secured to the roof.

7 Q Okay. And does that include all areas of the
8 roof or are there areas of the roof that do not have pans
9 or that pans are not located?

10 A There are areas, my understanding, that don't
11 have pans, but I believe -- again, I'm not a copper
12 roofing expert -- that each section was to be clipped,
13 each 15-inch section, or somehow a fastened. Whether they
14 were supposed to be clipped underneath or not, I don't
15 know. I do know the pans -- those that were pointed out
16 to me -- were to be clipped and secured.

17 Q Were there any other components to the roof
18 other than the pans that have -- that required clips?

19 A I don't know.

20 Q Do you know if there were any other portions of
21 the roof that had clips?

22 A I'm not sure I understand your question.

23 Q Well, my first question was whether it was
24 required by the contract.

25 The second question is are you aware of whether

1 any clips existed, whether it was contracted for or not?

2 A I do believe on the west si- -- was it the west
3 side -- there were clips identified. They might not have
4 been spaced pursuant -- but they were substantially there.

5 Q Okay. Do you know what the spacing was on the
6 west side clips?

7 A It's documented.

8 Q Okay.

9 A I don't recall off the top of my head.

10 Q Do you know -- did you ever discuss with Barry
11 the issues of the clips? Meaning, hey, we had
12 Hurricane Irma, I know you've been gone, but what -- did
13 you ever use clips, and if not, why not?

14 A I haven't spoken to your client since he walked
15 off the job.

16 Q Okay.

17 A Or his company.

18 Q Other than in deposition?

19 A Yeah, other than taking his deposition.

20 Q In that deposition that -- that you took of him,
21 did you ask him that?

22 A I don't recall.

23 Q Is there any reason you didn't call him after he
24 walked off the job and Irma hit and you discovered there
25 may have been clips missing? Or that's the allegation.

1 Any reason you didn't call him and ask?

2 A There were a number of years that transpired
3 between the time he walked off the job, he filed his
4 lawsuit, and Irma. And I think he was still represented
5 by counsel, so I wouldn't have contacted him directly.

6 Q Was there any period before he sued you that you
7 were aware of the clips --

8 A No.

9 Q -- being absent or --

10 A No.

11 Q -- not spaced properly?

12 A No.

13 Q Were you ever provided with any of the spacing
14 of the clips that existed?

15 A I'm not sure I understand your question.

16 Q Yeah. You said there may have been clips,
17 whether or not they were spaced, on the west side.

18 So were you ever provided measurements of what
19 the clips were actually spaced that existed?

20 A There is some documentation indicating what they
21 were. You know, again, it -- it's a picture that is
22 annotated with the spacing. That's what I recall.

23 Q Who provided that?

24 A Art Sanders.

25 Q Okay. Take a look at Exhibit 3. It's titled as

1 Proposal for the Roofing at the Friedberg -- and is it
2 Bunge or --

3 A Bunge.

4 Q -- Bunge Residence, Dated February 19, 2010.
5 I've marked it as Exhibit 3. It was also marked as
6 Sanders 8 in a separate deposition. So I assume that was
7 the Sanders depo.

8 A Yeah.

9 Q Is that -- what is that?

10 A This appears to be several proposals and the
11 final agreed upon contract. And at the end apparently
12 there's a separate document for copper for \$12,526.

13 Q Was that additional copper that he had
14 requested?

15 A I think so. Yeah. Looking at the date,
16 June 22, 2010, I would say that's copper he needed during
17 dependency of the project, he realized was needed.

18 Q Okay. Was that part of the disputed copper or
19 was that the part you paid?

20 A I think I paid this. I mean, I'd have to -- the
21 letter, I believe, explains it all --

22 Q Okay.

23 A -- and I don't specifically recall off the top
24 of my head.

25 Q Does anything in Exhibit 3 mention or clarify

1 the cleat spacing or clips?

2 A Yes. The contract that was signed, Bates stamp
3 P00008, it has \$10,735 for smaller panels and cleat
4 spacing. That same document also refers to -- page
5 seven -- cleats installed at an average of 9.05 on center
6 with two ring shank nails per cleat.

7 Q Do you know what -- when it says, add for
8 smaller pan- -- panels and cleat spacing, what it -- what
9 it refers to as to smaller panels?

10 A There was some discussion regarding the width of
11 the panels. I don't recall all the discussions. I do
12 believe that one of the rolls or some of the copper may
13 have been wider than 15 inches because that's what was
14 available. And I think that's what that portion is
15 referring to. But the agreement -- the final agreement
16 was 15-inch width panels with cleats at 9.5 inches. And
17 there was a specific change order for that -- or at
18 least -- I shouldn't say change order -- a specific line
19 item. And that was the contract that was accepted.

20 Q Was there more than one contract entered?

21 A No. There were some proposals. And I believe
22 you have the series of proposals. But my belief is -- I
23 just looked through these -- there was only one that's
24 signed.

25 Q And the one -- are you talking about the

1 signature on page eight?

2 A Yes.

3 Q Is -- do you have one where Barry has signed or
4 someone from Daybreak?

5 A You know, that's a good question. And Barry
6 apparently doesn't have any documentation when I took his
7 deposition.

8 Q All right. Do you?

9 A We've produced what we have.

10 Q Okay.

11 A So the answer is, no, I do not.

12 Q The -- referring you to page seven, do you see
13 where the 9.5 inches with two ring shank nails is
14 written --

15 A Yes.

16 Q -- per cleat?

17 Underneath that there's a note that says, See
18 Alternate A for screws in lieu of nails.

19 Do you know anything about what that means?

20 A I think there was some discussion, and I think
21 we ended up with the ring shank.

22 Q Do you know -- I don't see what Alternate A is.
23 Do you know what that is? Like was it part of
24 this document, Exhibit 3?

25 A I didn't see it.

1 Q Okay. Do you recall anything being in writing
2 as to what Alternate A refers to there?

3 A No.

4 Q And this is the only contract you had with
5 Daybreak, Huber & Associates, or Barry; correct?

6 A The one that's signed. I think there's three
7 separate documents there in one exhibit. But there's only
8 one signed --

9 Q Right.

10 A -- which, I think, was the May 7th. And that's
11 the only contract we have.

12 Q So you're saying the other ones were some
13 proposals that were discussed, and you landed on the
14 May 7, 2010 --

15 A Yeah. There were propo- --

16 Q -- as the agreement?

17 A Yes. There were other proposals discussed, but
18 then there were conversations regarding the spacing of the
19 cleats and -- for maximum windstorm issues. And this was
20 what was represented would be sufficient. And that's what
21 we agreed on and we agreed to pay the extra money for.

22 Q Was it your understanding that this roofing
23 system would hold up under all winds?

24 A Well, it was designed to hold up, yes. It
25 was -- strike that.

1 As agreed upon, if installed correctly, it was
2 designed to hold up, was my understanding.

3 Q Under any winds? Whether it's 225 miles an hour
4 or even greater than that?

5 A Well, I'm not going to speculate. I'm just
6 going to tell you what the facts are and the fact that the
7 roofs held in place with the exception of this particular
8 area without clips.

9 Q That wasn't my question.

10 A I understand --

11 Q My question was --

12 A -- but that's -- I'm not going to speculate as
13 to -- you know, hypothetically what wind speed may be.
14 I'm just going to tell you what I know. And I just
15 testified to that.

16 Q Right. My question was was it your
17 understanding that this roof system would hold up under
18 any winds regardless of how high they are?

19 A I've already testified what my understanding
20 was, and I'm not going to speculate based upon your
21 question. It's inappropriate as to form. Calls for
22 speculation. Lack of foundation.

23 Q Can you answer that question, yes or no?

24 Was it your understanding that the roof was
25 supposed to hold up under any winds? You said it was

1 supposed to hold up. I'm clarifying whether you mean
2 under any conditions of wind. Like no matter how high
3 the winds were, it was supposed to hold up?

4 A I can't answer that question. If you don't
5 like --

6 Q Why not?

7 A I'm not going to speculate as -- as to what
8 various wind speeds may be. If you don't like my answer,
9 mark it, and let's move on.

10 Q I don't need to mark it. I'm asking you what
11 your understanding of the roofing system was.

12 Was it your understanding that it would -- you
13 said it was intended to hold up under weather conditions
14 or something to that effect. So is it supposed to hold
15 up under any weather condition whatsoever?

16 A Well, the roof was intended to hold up in the
17 hurricane-force winds -- at least a Category 5 hurricane.

18 Q And where is that written? Is that part of the
19 contract?

20 A Well, again, the discussions were -- and that's
21 why there was a change in spacing as reflected in the
22 various drafts. And we -- 9.5 -- it was either
23 represented by Huber or somehow -- I didn't have the
24 research for it, but I was advised that that would be
25 sufficient. And that's what Huber represented. And he

1 said it would cost us extra money, and we agreed.

2 Q Okay. That wasn't my question.

3 My question is where in the contract does it
4 state anything about it will hold up under any wea- --
5 weather conditions?

6 A It doesn't state that in the contract.

7 Q Okay. Other than the spacing of the cleats, is
8 there any other portion of this contract in this
9 Federal District Court claim that you're claiming he
10 breached?

11 A Well, the fact that there were no cleats in
12 certain areas, which is in addition to the spacing issue.

13 Q Okay.

14 A But it deals with the cleats.

15 Q Other than the cleat issues, meaning either they
16 weren't there or they weren't spaced properly, is there
17 anything else in this contract you're claiming he
18 breached in this current action?

19 A No.

20 Q Let's look at Exhibit 4.

21 And these Bates numbers, those are yours;
22 correct?

23 A Yeah.

24 Q And was that part of your disclosure -- your
25 initial disclosure in this case or something else?

1 A I don't know.

2 Q Okay. Tell me what -- what those documents are.

3 A Well, one appears to be an invoice or
4 itemization of goods shipped.

5 Q Let's start --

6 A What?

7 Q -- start -- let's start there or stop there for
8 a minute.

9 You see up there where it indicates cleats?
10 Right there.

11 A Yes.

12 Q And what's the quantity on the left column?

13 A 9,350.

14 Q Okay. Is it your contention that those cleats
15 were not provided?

16 A I don't know if they were provided or not. I
17 don't talk about -- they were not installed in the areas I
18 already testified to.

19 Q Do you know if anyone ever saw those cleats?

20 A The 9,350 cleats?

21 Q Right. Like did Chris --

22 A I --

23 Q -- for example, see a box of cleats?

24 A -- I -- I don't know.

25 Q Okay. Keep going.

1 So what's -- page one indicate- -- is an invoice
2 or indicates some products and pricing; is that correct?

3 A Yes.

4 Q And then what -- what do we have beyond that?

5 A Appears to be a report from August 2018.

6 Q From?

7 A Or I -- I take that -- a letter from August
8 of 2018.

9 Q From who to who?

10 A Art Sanders to -- to myself.

11 Q Okay. And what's the summary of that letter or
12 the gist of it?

13 A It's a supplemental. And the letter speaks for
14 itself.

15 Q Art was an expert you hired to analyze the
16 roof --

17 A Yep.

18 Q -- post-Irma?

19 A Yes.

20 Q Is he the one that disassembled and noted no
21 cleats?

22 A I don't know if he was the one or the Dahill
23 workers were the one.

24 Q Okay.

25 A I don't recall.

1 Q All right. What else do we have after that
2 letter?

3 A A report starting on page 13 of July 2018.

4 Q From Art?

5 A From Art, yeah.

6 Q How many pages is the report?

7 A Page 13 through page 58.

8 Q Okay. Then is that it?

9 A Yeah. That was all part of Art's report.

10 Q His report includes photos of the project; is
11 that correct?

12 A Yes.

13 Q For example, Photo 1, what -- what's the
14 timeframe on that? Is that pre-Irma or post-Irma?

15 A I think this is post-Irma.

16 Q Did you provide any photos to Art or did he take
17 them all himself?

18 A That looks like a drone photo, which I probably
19 would have provided to him.

20 Q From the drone guy that we spoke about earlier?

21 A Yes.

22 Q Okay. Did you pro- -- did you take any photos?

23 A Well, I might have. I don't recall.

24 Q Art indicates in his Storm Damage Summary
25 Background that, in fall of 2017 two hurricanes occurred

1 in the Caribbean, Irma and Maria. And we've talked about
2 those.

3 On September 6th, Irma hit St. John with
4 reported sustained winds more than 200 miles per hour for
5 several hours.

6 Do you know where he got that information?

7 A No.

8 Q He says, on its trek through the Caribbean,
9 Irma's contiguous period of maintaining Category 5
10 intensity became the second-longest Atlantic storm to
11 maintain winds above 165 -- excuse me -- 156 miles per
12 hour behind only the 1932 Cuba hurricane.

13 Do you know where he got that?

14 A No.

15 Q The damage documented in this summary to the
16 copper roofs occurred from winds associated with Irma.

17 You understand that's his conclusion?

18 A Yes.

19 Q And then he says, two weeks later, Maria was
20 more southerly, and there was no additional damage.

21 You agree with that?

22 A Yes.

23 Q His damage assessment says, the damage varied
24 from punctures in the copper pans. Let's stop there for
25 a minute.

1 Punctures in the copper pans does not sound like
2 something that's related to clips being there or not.

3 Would you agree?

4 A Yes.

5 Q Sounds like what you were talking about earlier,
6 debris from other properties and things like that?

7 A Sounds reasonable.

8 Q Okay. And distortion of standing seams created
9 by flying debris -- so he -- he seems to suggest the same
10 thing -- to up- -- comma, to uplift/displacement at
11 ridges, period. In addition, the coating on the flat
12 concrete roof surfaces was torn away by the force of the
13 winds.

14 What does that refer to -- the coating on the
15 flat concrete roof surfaces?

16 A It's like a Vulkem or Pyroseal.

17 Q Okay. Does that have anything to do with
18 Daybreak's work?

19 A No.

20 Q Was Art an expert in the Superior Court case?

21 A Yes.

22 Q He says, no trained metal workers are available
23 on the islands that can accomplish these repairs, which
24 is his Approach to Repairs.

25 Do you agree that that's the case, from your

1 understanding?

2 A I would agree that there aren't trained metal
3 workers that deal with copper roofs. At least that we are
4 aware of.

5 Q It says, there's a metal break at the site, and
6 if needed, fabrication less than 10 feet in length could
7 be formed as-needed on-site.

8 What does that refer to -- a metal break?

9 A It's a piece of equipment that we purchased.

10 Q That you purchased?

11 A Yes.

12 Q Okay. Was that utilized by Daybreak?

13 A I think so.

14 Q And that's something you've kept?

15 A I think it's still there.

16 Q Okay. That was for the roof solely or is it
17 used for something else?

18 A No. Gutters and --

19 Q Okay.

20 A -- there was oth- -- there's other metal work on
21 the property that Daybreak wasn't involved in.

22 Q How did the gutters fair in the storm? Did they
23 exist at the time?

24 A No problems.

25 Q Okay. Is it your understanding that Art's

1 opinion was that it should be repaired as opposed to
2 replace?

3 A As I understand, insofar as the main roof, his
4 recommendation was to replace, not repair.

5 Q Do you know why he's saying things like Approach
6 to Repairs and talking about -- you know, what would need
7 to be done?

8 A A number of other roofs were able to be
9 repaired. I -- and I have to speculate -- I mean, what he
10 saw on those other roofs.

11 Q When's the last time you've spoken with Art?

12 A Well, I don't want to get into any attorney
13 work product privilege, but it was in 2025.

14 Q Okay. And where is he located?

15 A I believe he's in northeast United States.

16 Q Okay. What state? I'm just curious. I'd like
17 to dispose him once he's disclosed, if he is disclosed.

18 A Right. Well -- you know, I don't know if he's
19 still in Connecticut.

20 Q Okay.

21 A I didn't ask him that question. But that's
22 previously where he was.

23 Q Okay. And how old is he? Is he retired or he's
24 still working?

25 A He's a young guy like you.

1 Q Thank you.

2 A Art -- Art retired. I don't know when. Maybe
3 two years ago.

4 Q Okay.

5 A A year ago.

6 Q Congratulations to him.

7 Did you ever -- is it your understanding on the
8 repair work that something different would be used other
9 than clips? In other words, rivets? Did that ever come
10 up?

11 A Well, rivets are not the same as clips, but,
12 again, I'm not --

13 Q I'm not -- I'm not a roofer.

14 A Yeah.

15 Q That's why I'm asking.

16 A There were missing rivets, which were
17 re-riveted.

18 Q Okay. Missing rivets. Was it determined or
19 known whether they ever existed or were they blown out
20 because of the storm?

21 A I don't know. I -- I just don't know. I --

22 Q Did you ever hear a complaint by Chris or a
23 comment that there are rivets missing on the roof before
24 Irma?

25 A I don't recall.

1 Q Did -- I know -- I'm going to back up for a
2 minute.

3 You said that your wife was present, expecting a
4 final walk-through that never occurred with -- with Barry
5 or somebody from Barry's company.

6 Was an inspection of the roof ever done? Not by
7 Barry, but by anyone pre-Irma?

8 A Pre-Irma? Yes.

9 Q Who?

10 A Art.

11 Q Okay. And tell me again -- Irma was 2017?

12 A Yes.

13 Q Did -- did Art author some kind of inspection
14 report?

15 A Yes.

16 Q Okay. Is that something you've provided?

17 A Yes.

18 Q Okay. Maybe we'll get to it. I don't -- I
19 don't remember the date on that one.

20 But pre-fall of '17?

21 A Yes.

22 Q And what was -- was anything -- what was the
23 result of the inspection of the roof?

24 A He recommended certain work be done.

25 Q What was it?

1 A I don't necessarily recall --

2 Q Okay.

3 A -- top of my head.

4 Q I don't imagine it had anything to do with
5 clips; correct?

6 A Not -- I believe it did not, correct.

7 Q Pans were never lifted up to see what was
8 underneath at that time?

9 A Correct.

10 Q Or nothing was disassembled?

11 A Correct.

12 Q Does it ring any bells that it was the areas you
13 talked about before where the copper was touching other
14 materials?

15 A I'm not under- -- sure I understand what you're
16 saying.

17 Q Yeah. I think you -- I thought you said earlier
18 there was some issues with the roof, maybe in the
19 Superior Court case, that involved the roofing next to
20 plaster or something else.

21 A Yeah. There were issues in that regard.

22 Q Was that what he was reporting on? Does that
23 ring any bells?

24 A Well, that was one of the thing- -- I believe
25 that was addressed.

1 Q Okay. Do you recall anything else he addressed?

2 A No. I mean, I haven't looked at those --

3 Q Right.

4 A Not -- not -- not presently.

5 Q Yeah. So he has the areas that he thinks things
6 should be done under Copper Work. It says General, then
7 he has Gatehouse, which we know is not the main house.
8 The Garage, which we know what that is. The Guest and
9 Dining Pavilion.

10 You -- you referenced the dining pavilion
11 earlier. The guest pavilion is what?

12 A The guesthouse.

13 Q The guesthouse. Okay.

14 The Main Pavilion. Is that the main house --

15 A Well, I assume so. I'm not looking at the
16 report, but I -- when I refer to it I call it the main
17 report -- the main house.

18 Q Okay. He says main pavilion.

19 Is there some other structure you would call the
20 main pavilion?

21 A I'm assuming that's what he's meaning.

22 Q Okay. And he says -- and this is -- this report
23 we're looking at right now is post-Irma; correct? It's
24 2018.

25 A Okay.

1 Q I believe March. I'm sorry. July 30, 2018 --

2 A Okay.

3 Q -- agreed?

4 He says under the Main Pavilion, the drawings
5 indicate damage to more than 80 panels.

6 Do you know how many total panels there were?

7 A No.

8 Q Hoffmann Architects recommends that the entire
9 main pavilion roof be replaced -- so there's some
10 clarification as to that -- a total of 160 panels
11 totaling 3,520 square feet. So --

12 A There -- there's your answer to your prior
13 question.

14 Q Yeah. Does that sound right as far as the
15 square footage of the main --

16 A I'd be speculating. I -- I -- I don't know.

17 Q Okay. The substrate membrane should be
18 recovered with new membrane.

19 Do you know what that refers to?

20 A Not really.

21 Q Okay. Was Daybreak responsible for installing
22 any kind of a membrane?

23 A No. Although I think they billed me for one
24 that was never delivered to the island.

25 Q Okay. New blocking is needed at the

1 intersecting ridges to cleat the pans at their midpoints
2 where the winds displaced the ridges. Provide two new
3 vent stack flashings.

4 Do you know anything about that --

5 A No.

6 Q -- new vent -- vent stack flashings?

7 A No. I mean, I understand what a vent stack
8 flashing is.

9 Q Okay. But you don't -- all right.

10 Okay. The Main Pavilion Library, that's part of
11 the main house?

12 A Yes.

13 Q It says replace two panels. Talks about their
14 length. At each panel check the substrate membrane for
15 damage and patch as required.

16 Are you aware of any damage to the membrane done
17 in Irma?

18 A No.

19 Q Okay. Replace ridge caps, full length, for each
20 run with 1- -- 1/12-inch battens, 96 feet total.

21 Do you know what that means?

22 A No. I mean, I understand what a batten is.

23 Q Right. Okay. Master Suite, that's part of the
24 main house?

25 A Yes.

1 Q Replace three panels. Kind of similar stuff in
2 that.

3 Beach Pavilion is a separate structure; correct?

4 A Yes.

5 Q And then it looks like we go into some diagrams
6 where he starts with the guest pavilion and dining
7 pavilion roof plans.

8 Is that what that looks like --

9 A Yes.

10 Q -- on page -- I'm just going to use the Bates
11 number that's here in red -- page 18?

12 A Yeah.

13 Q Main Pavilion and Master Suite Roof Plans is
14 page 19. It looks like there's a notation of cracks.

15 Do you know what the cracks were?

16 A Yeah. The pan- -- the -- let me make sure I use
17 these terms correctly.

18 The copper 15-inch sections, they go -- it's
19 kind of a witch's hat --

20 Q Uh-huh.

21 A -- the top of it. Where it changes, that's
22 where the cracks are. At the ridges.

23 Q Okay. At -- at the joint, are you saying?

24 A There wasn't a joint. It was just --

25 Q Okay.

1 A -- the -- the metal.

2 Q Okay.

3 A And they're, I believe -- well, again, that's
4 where the cracks, I believe --

5 Q Is the crack at the bend?

6 A On the ridge, yes. That's -- I think that's
7 what he's referring to.

8 Q Okay. So take a look at this page 19, and
9 orient me to -- where's the east side of the roof you
10 referenced as having the problems?

11 A Right --

12 Q Is it the lower section of the diagram?

13 A Yeah. Yeah.

14 Q So lower -- lower part of the diagram is east,
15 upper is west?

16 A Roughly. You know, that's the --

17 Q Yeah.

18 A -- best or -- you know, it's maybe not due west,
19 but...

20 Q And then to your right is the north, and to your
21 left is to the south?

22 A Yes.

23 Q And I'm talking about the larger structure
24 there.

25 A I understand.

1 Q Okay. So tell me about these different
2 structures.

3 What -- this main -- I don't know if it -- is it
4 hexagonal or octagonal? One, two, three, four --

5 A You must have aced geometry.

6 This is the main -- I refer -- this is all we
7 refer to as the main house.

8 Q Right.

9 A The entire --

10 Q The entire diagram?

11 A Entire.

12 Q What is the larger --

13 A This is the great room.

14 Q Okay.

15 A This is the library.

16 Q Okay. So moving from left to right we start
17 with great room, library.

18 A This is -- underneath, this is the master bath.

19 Q Okay.

20 A This is the mas- -- this is a steam shower --
21 shower.

22 Q Okay.

23 A And then this is the master bedroom.

24 Q Okay. Is there any area where he's pointed
25 out -- I see broken rivets -- is there any area where

1 he's pointed out missing rivets?

2 A I don't know. I mean, I haven't really looked
3 at this. I -- I -- it looks to me like he just -- on this
4 page it says broken pop rivets.

5 Q When -- do you recall when it was discovered
6 that there may have been an issue with either clips being
7 present or spaced properly?

8 A Clips not being present -- you mean cleats not
9 being present?

10 Q By being present I meant either one.

11 A Yeah. It was during Art's inspection post-Irma.

12 Q Okay. Does he mention anything about cleats
13 being present or not present or not spaced properly in
14 this page 19 that you see?

15 A No, not that I see.

16 Q Okay. Was there any debris still within the
17 roof anywhere? Like a puncture where something stuck
18 there and --

19 A No.

20 Q Was Art deposed in the Superior Court case?

21 A Yes.

22 Q Look at page 24, same exhibit. We're still on
23 Exhibit 4. Photo 5.

24 Is that a photograph that was taken post-Irma?

25 A Yeah. The drone photos, I think, were all

1 post-Irma.

2 Q Okay. Is there anything you can point out in
3 terms of damage in the -- Photo 5, for instance?

4 A I don't know if you can see in these photos, but
5 right here --

6 Q I see that.

7 A Yeah.

8 Q What's that?

9 A There was -- I -- I testified earlier on the
10 north side of the master bedroom there was some
11 deformation to some of the copper, and you see a lighter
12 color. We put some of that spray that comes out as foam,
13 then hardens.

14 Q Right.

15 A You know? That's what was done where there was
16 any issue that there may have been.

17 Q Was that a puncture --

18 A I don't know if --

19 Q -- from a puncture?

20 A -- I don't know if it a puncture or a
21 deformation, but --

22 Q Right.

23 A -- we just sprayed it, and --

24 Q Right. Other than that, where you've sprayed
25 that, do you see any other --

1 A It's hard to --

2 Q -- damage --

3 I know. It's a drone photo. It's as good as
4 the photo. But I just wondered if there's anything I'm
5 not seeing that's there --

6 A No.

7 Q -- that you see?

8 A Not really.

9 Q Okay. Same question as to photos -- well,
10 that's the beach pavilion. Nevermind.

11 On page 26 do you know what roofing systems
12 those are? In other words, the main house, the
13 gatehouse, or what that is?

14 A No. No.

15 Q Was -- was that spray foam applied anywhere
16 other than the main house?

17 A There were different areas, yeah. Wherever
18 there -- it was necessary to be applied, it was applied.

19 Q Look at Photo 12 on page 27 of this composite
20 exhibit.

21 Where's that flat roof?

22 A Hard to say. This may be the gatehouse above
23 the jacuzzi -- inside jacuzzi. I think.

24 Q Okay. How about Photo 14? Do you know where
25 that is? On page whatever -- what page --

1 A I -- page 28. I think this is the garage studio
2 roof. I mean, it's somewhat hard. There's no context
3 there.

4 Q Maybe this will help us.

5 On page 34 -- like in the margins of some of
6 these pages it will say, I guess, where we're now
7 starting to look at. So it looks as if Photo 26 starts
8 with what says the Main Pavilion on page 34.

9 Do you agree?

10 A Yeah.

11 Q At the time -- or just prior to Ir- -- Irma
12 hitting were there any structures attached to the roof
13 like a -- this may sound silly -- but a satellite or an
14 antenna or a lightning system?

15 A The items that were attached to the roof were
16 attached to the -- above the garage studio to the flat
17 roof. That's where the -- it's not really an antenna. It
18 aims across the bay to -- for the Internet.

19 Q Okay. Nothing on the main house like that?

20 A Correct. They were attached to po- -- like vent
21 stacks that were coming out of the flat roofs.

22 Q Gotcha. Earlier we saw something from the
23 drone. This is not from the drone, but look at page 43,
24 Photo 44.

25 Is that what we were looking at?

1 A I don't know. This looks to me -- yeah. This
2 is -- in the lower photograph, that's the area I was
3 referring to --

4 Q Yeah.

5 A -- that had -- had deformation.

6 Q Because that's northeast corner. It seemed to
7 match where you were pointing earlier.

8 A Yeah.

9 Q How many reports did Art prepare?

10 A I think just --

11 Q You said there was one pre-Irma. And there's
12 this one.

13 A Yeah. I think just two.

14 Q So starting on page 49 it looks like he has a
15 Scope of Project of the work.

16 A Okay.

17 Q And this is where I was reading from earlier, I
18 think, unless this is a different one.

19 But as to the main house, it indicates a roof
20 replacement is recommended; correct?

21 A Yeah. Yes.

22 Q And then he talks about kind of some of the
23 options. And he says, one thing we could do is
24 prefabricate the panels and ship in a 40-foot container,
25 but that's not an option because the container could not

1 be transported to the site.

2 A Well, it can be transported to St. John. And
3 then there's an area where people offload to 20-foot
4 containers.

5 Q Okay.

6 A I don't know if we've ever brought a 40-foot
7 container to the property. I mean, there are 40-foot
8 containers in Chocolate Hole that have made it.

9 Q Uh-huh.

10 A You're somewhat familiar with the terrain of the
11 island --

12 Q Yeah.

13 A -- say at the west end.

14 Q Yeah.

15 A It's a challenge getting them up over
16 Jacob's Ladder.

17 Q Yeah.

18 A More often than not, they slide back -- the
19 trucks.

20 Q Yeah. Well, the -- it says they're over 33 feet
21 in length. So it sounds like a 20-foot thing would not
22 work.

23 A The further discussion, whether it's in the
24 report or not, was to --

25 Q It's coming, I think.

1 A Okay.

2 Q So hold -- hold that thought.

3 But do you know -- do you know it to be -- he's
4 saying a 40-foot container could not be transported to
5 the site.

6 Do you agree with that or no?

7 A I -- I think that's probably correct. It can't
8 get all the way to the site.

9 Q Right. Or it would be logistically difficult?

10 A I would agree with that.

11 Q Okay. Two is roll the pieces on-site. But he
12 says there's no rolling machine on the island. For the
13 original construction a machine was shipped and then was
14 returned. He said the option was considered but found to
15 be quite costly.

16 Does that ring a bell?

17 A Yes.

18 Q Okay. And then three was if the roof's
19 reinstalled with pan lengths of less than 20 feet, the
20 copper can be fabricated off-site and shipped in a
21 20-foot container. This solution is the least expensive.

22 So was that the plan?

23 A I believe so.

24 Q Okay. And then he talks about what he would do
25 with the main pavilion library, the master suite, and the

1 beach pavilion. And he says, Schedule: It is
2 anticipated that the work will be performed in late
3 January 2019, and the duration may be 60 to 90 days.

4 So was it ever more formally discussed or
5 planned that it would, in fact, occur in January 2019?

6 A There were discussions with Dahill. There were
7 scheduling issues. And I don't know -- and then COVID
8 hit.

9 Q Right. Well, COVID was a year later. So I'm
10 trying to --

11 A There was --

12 Q I know that in construction a year is like a
13 second, but...

14 A There -- there were scheduling issues.
15 Predominately, any work to -- that would be done would
16 have to be done during the hard winter months when Dahill,
17 who was out of the northeast, doesn't -- they don't work
18 on roofs.

19 Q Right.

20 A So we were -- that was what the discussions
21 were. And then -- you know, again, there were scheduling
22 issues.

23 Q What is the permitting process in the
24 Virgin Islands? If you were to redo this roof as we've
25 just talked about -- and I don't care if we're -- just

1 in -- in generally speaking --

2 A Yeah.

3 Q -- how hard is it to get permitting?

4 A I don't think a permit -- I mean, Huber didn't
5 pull a permit, I'll tell you that. So I don't know. I
6 mean --

7 Q Okay. Sometimes when there's hurricane-related
8 stuff they issue them easier or quicker, but...

9 A This is not a structural -- so --

10 Q Yeah.

11 A -- I don't --

12 Q Yeah.

13 A -- I don't know --

14 Q I don't know that it's required either.

15 A Yeah. That's kind of the point I was getting
16 at.

17 Q Okay.

18 A Your client was down there doing the work
19 without a permit. And permits were on him. So...

20 Q Uh-huh. I don't see anything in Art's Scope of
21 Construction Management Services that discusses the need
22 for a permit or obtaining a permit.

23 Do you agree?

24 A I don't know. I -- again, I haven't reviewed
25 that document for quite some time.

1 Q Then he says with his cost estimates it's based
2 on estimates from four sources, including
3 Hoffmann Architects, F.J. Dahill, Springline Design, and
4 local sources. And then he's got an estimate at the end
5 on page 58 with a subtotal of \$592,920 with a total of
6 \$687,088. Let me have you look at that and ask you some
7 questions.

8 What changes the subtotal to equal that total?
9 Do you know? Usually there's something that says like --
10 you know, tax or -- you know, profit for the contractor
11 or something --

12 A Well, I'm -- again, just looking at the 121, 471
13 is the 592. And then you have 67,5 and 26, which I'm
14 reading upside down...

15 Q Yeah. Let me see that. I don't know what those
16 refer to, though.

17 A I think they refer to -- this portion here seems
18 to be the -- again, I'm reading upside down -- the
19 architectural portion of 67 and change, and then the
20 Construction Administration is 26. So --

21 Q All right.

22 A -- that -- that's how I'm reading it.

23 Q Okay. Let me see that again.

24 Is this solely related to the main building?

25 A I don't know. You know, again -- I'm not sure.

1 And I may have mentioned this to you previously that I've
2 asked Dahill to clarify that.

3 Q Uh-huh.

4 A Because it may refer to other portions.

5 Q Have they refer- -- have they clarified it?

6 A I haven't received that yet. I've spoken to
7 them recently, and we're in the process of getting that
8 figured out.

9 Q Right. Because at the time that Art prepared
10 this report, the Superior Court case regarding many other
11 structures was still pending, wasn't it?

12 A I think so.

13 Q Okay. So he wasn't limiting it to the issues,
14 necessarily, in this Federal District Court case?

15 A Yeah. I -- I have agreed, and I think I've
16 represented to you that that may include buildings that
17 are not part of this lawsuit, in which case we need to get
18 further clarification from Dahill.

19 Q Was that provided as the damages that were
20 sought to be recovered in the Superior Court case?

21 A No. Because the main house was not included.

22 Q And maybe this answers it.

23 Take a look at -- it's a weird thing. I guess
24 this is dated May 17, 2018. I -- I've never seen a date
25 written like that. But look at Exhibit 5.

1 A People in the northeast does things differently.

2 Q Yeah.

3 A Okay.

4 Q What is that document?

5 A This -- this appears to be the main pavilion
6 budget based upon costs in 2018.

7 Q Okay. So that would be, at that time, Dahill's
8 estimate to repair anything regarding the main building;
9 correct --

10 A Right.

11 Q -- roo- -- roofing?

12 A Their work would be the materials and labor, but
13 not the Architectural Contract Administration portion. Or
14 the mobilization.

15 Q What do you mean by the mobilization?

16 A Well, getting scaffolding up, getting the site
17 prepped.

18 Q Okay. Because this says excluded are lodging,
19 travel, permits, scaffolding, and taxes.

20 A Yeah. Okay.

21 Q And, again, I don't know what they mean by
22 permit here.

23 A I -- I -- I -- I don't know if a permit is
24 required or not. But I would think that the
25 transportation and the lodging would be a -- a big ticket

1 item.

2 Q During the original roof work that was done by
3 Daybreak -- look at that ratio of labor to materials.

4 Is that similar to your recollection of what it
5 was like before?

6 A I don't know. I mean...

7 Q Does 89,000 in material sound proper to replace
8 all the copper?

9 A For some reason --

10 Q Considering it was '18 -- 2018?

11 A For some reason I'm thinking we paid 80 to 100
12 for the copper initially.

13 Q Okay.

14 A And then plus what we paid to Huber.

15 Q And we can check that and see.

16 A Yeah. So -- you know.

17 Q All right. Exhibit 6 looks like something that
18 may have been attached to the Hoffmann Architects -- I
19 don't know what it is. It looks like their pricing for
20 their different personnel working on the project. I'll
21 show this to you in a second, and you can tell me what
22 your understanding of it is.

23 Sorry. Remind me of -- when was Irma?

24 A 2017.

25 Q What's not making sense to me is -- well, this

1 is Exhibit 6, and I'll let you fully look at it in a
2 second. But that date on the top in the engagement is
3 not making sense to me.

4 A I don't understand why. This was -- this was
5 the initial report in the Superior Court case.

6 Q Okay. So this is pre-Irma?

7 A Yep.

8 Q This is the report we were talking about
9 earlier?

10 A Yes.

11 Q Okay. That's what was throwing me off.

12 MR. FRIEDBERG: While you're looking -- can we
13 take a break so I can use the restroom?

14 MR. COSBY: Yeah. Go ahead.

15 (Off the record at 3:18 p.m.)

16 (On the record at 3:21 p.m.)

17 BY MR. COSBY:

18 Q We talked earlier of the contention that the
19 clips were the cause of the roof lifting up -- the lack
20 of clips; is that correct?

21 A Yes.

22 Q And is it your understanding the clips were the
23 only thing securing the roof?

24 A Yes.

25 Q Or those portions of the roof to the structure?

1 A Yes.

2 Q So looking at this pre-Irma report.

3 Why was Hoffmann Architects brought in?

4 A To review the copper roof.

5 Q Okay. Is that the only reason?

6 A Yes.

7 Q Okay. So I'm going to show you Exhibit 6 in a
8 moment, but -- but it's -- look at the highlighted
9 portion of that, and -- and take a look at anything you
10 need to verify that that is the initial report.

11 And that is the initial report from Hoffmann
12 that we were discussing earlier; correct?

13 A Yeah.

14 Q Yes?

15 A Yes.

16 Q Okay. So it looks like there was some
17 investigation into whether there were clips or not, and
18 it was confirmed there were; is that correct?

19 A This is on the west side, which I testified
20 earlier there was a portion taken apart, and they verified
21 there was some -- clips were there. And there's a picture
22 showing the spacing.

23 Q Okay.

24 A They may not have been 9.5 on center, but they
25 were present. And there's some notation in the photograph

1 of what the spacing was.

2 Q Is there any reason he -- are you suggesting he
3 limited that to the west side?

4 A Yeah. That was the only where -- the only area,
5 to my recollection, which was disassembled. And it was
6 predominately because one of the ridge caps needed to be
7 redone. And so that was the reason why it was removed and
8 redone and re-riveted back in.

9 Q So when he's doing this work either he or his
10 crew is removing rivets; correct?

11 A Rivets were removed.

12 Q And under this site investigation -- and it
13 talks about things at the gatehouse, which I'm not going
14 to focus on that because we're -- we're -- we're
15 concerned with the main pavilion -- the remainder of the
16 first day was spent investigating the pan and ridge
17 construction of the main pavilion. Traversing the entire
18 roof, defects in the pans were noted and phot- --
19 photographically documented. A section of the
20 intersecting pans between the pie shapes of the octagon
21 was opened up by first drilling out the pop-up rivets,
22 removing the -- removing one section of cap, revealing
23 the joined pans, and unfolding the overlapped pan edges
24 to check for clips. This condition was then reinstalled
25 with new rivets, replacing those removed. This occupied

1 the remainder of the day.

2 I don't see anything in there that suggests this
3 was to the west side versus the east, do you?

4 A I can tell you I was present. That's where it
5 was.

6 Q Okay. So you were present and remember all of
7 that?

8 A I remember specifically it was the west side.

9 Q Okay. Was -- 10 years ago?

10 A I don't like roofs. I would not want to walk
11 out on the east side. I had a lot of trepidation
12 post-Irma.

13 Q Okay.

14 A This was an easy area to get to.

15 Q But this was pre-Irma.

16 A I understand that.

17 Q So let's not think about post-Irma trepidation.

18 A I did not personally walk out on the east side
19 because I was literally afraid of the height. I --

20 Q Is the -- is the east side the ocean side?

21 A Yes.

22 Q Okay. So it looks like you'd fall right down
23 the --

24 A Thirty- to forty-five-foot drop --

25 Q Okay.

1 A -- to the ground from the east side. The west
2 side is easily accessible. You know, you're talking
3 about -- to get onto the roof about 8-foot.

4 Q Okay. The second paragraph says, at the main
5 pavilion, in the morning of the second day, a section of
6 double lock seam was carefully opened up to verify the
7 double lock seaming and expose and verify the clip
8 spacing. This joint was repaired to its original
9 condition. As more verification was not deemed
10 necessary, no other invasive pan investigations were
11 performed.

12 So at that time it certainly --
13 Hoffmann Architects could have looked farther, but chose
14 not to; correct?

15 A Well, anything is possible. I'm not going to
16 speculate.

17 Q Well, was there any reason they couldn't
18 continue to inspect different areas of the roof?

19 A It was a question of disassembling the roof, and
20 they felt -- well, I'm not going to speak to --

21 Q You don't have to speak --

22 A -- Hoffmann --

23 Q -- for them, but --

24 A But, no, the -- upon disassembly it was noted
25 what was noted in the report. And they then reinstalled.

1 They didn't go ahead and do destructive testing on any
2 other portion of the roof.

3 Q All right. It was confirmed there were clips
4 there -- at least in some portions of the roof; correct?

5 A We're -- we're not disputing. I've already
6 testified on the west side there were clips where it was
7 disassembled. And the west side did not fail in Irma. It
8 was the east side.

9 Q There's mention of water testing.
10 Do -- were you present during that water
11 testing?

12 A I believe I was.

13 Q Do you know if that water testing complied with
14 any of the industry standards for professional water
15 testing as opposed to --

16 A I -- I don't -- I don't know.

17 Q -- using a garden hose?

18 A I -- I don't know. But I believe that was in
19 the gatehouse.

20 Q Is that what it refers to as the kitchen?

21 A Yes.

22 Q Okay. There's mention of applying water along
23 the exterior wall above the living room.

24 What structure is that?

25 A The gatehouse.

1 Q Other than the west side of the roof was there
2 any other portion of any of the roof systems on any
3 buildings where there was an investigation as to the --
4 whether clips were present or whether they were spaced
5 appropriately?

6 A I -- I don't believe so. But, again, I'm not
7 100 percent sure.

8 Q There's mention to a Mr. Hendren's visit to the
9 site.

10 Who is that -- Stephen Hendren?

11 A He was a defense expert for Day- -- he was
12 Daybreak's expert.

13 Q Was there any issue with the plaster
14 construction?

15 A I -- I'm not sure what -- what do you mean
16 plaster construction?

17 Q There was plaster as part of the construction of
18 the --

19 A Well, there was -- was plaster. The issue was
20 where the flashing met the plaster.

21 Q I mean in general. Did you have issues with the
22 work performed by whoever performed the plasterwork?

23 A Not really.

24 Q Does that mean no?

25 A Well --

1 Q Not really sounds like maybe, maybe not.

2 A Well, I -- I know quite a bit of plaster was --
3 came off in Irma and Maria. I don't know what the cause
4 of it was. But, no -- I mean, the plasterwork we were
5 satisfied with.

6 Q Did you ever reach out to the person performing
7 the plasterwork or that company to say, hey, come repair
8 this, it didn't hold up during Irma?

9 A They were part of the crew that worked for us.

10 Q Okay. Take a look at this series of photos.
11 It's titled -- this is Exhibit 7, I've marked it as, but
12 it's titled F&B v. Daybreak Rule 26 Disclosures. And
13 it's Bates stamped 298 to 331.

14 These are photos of your home, I assume, but
15 tell me the timeframe.

16 A These were likely pictures I took. I think they
17 were -- they are pictures I took during the construction.

18 Q During what portion of the construction?

19 A Well, whi- -- while Daybreak was down there.
20 Whatever period of time that was in 2010.

21 Q Okay. So Daybreak's construction, you're
22 referring to?

23 A Yeah. I mean, you can see their workers up
24 there. They all wear their blue shirts.

25 Q Are there any photos contained in that grouping

1 that in- -- that support the contention that the clips
2 weren't spaced properly or may not have been present?

3 A No. I -- it's part of our disclosure. I think
4 a request had been made for photographs, and these were
5 pictures that I had taken. And they were just to kind of
6 show what was going on.

7 Q Yeah. And that's how I looked at them. I just
8 want to make sure --

9 A No. There's no specific --

10 Q -- there's nothing else in there.

11 A -- contention that those photographs document
12 anything. It's just generally what was happening.

13 Q All right. So that's Composite Exhibit 7.
14 Don't need that.

15 Exhibit 9 is a separate collection of photos.
16 Tell me what those are.

17 A These, again, would have been taken -- these
18 look like while Daybreak's people were there.

19 Q Photos taken by you?

20 A I -- I believe so, yeah.

21 Q Okay.

22 A I -- I don't see the guys there, but it looks
23 like the work was still going on.

24 Q All right. We'll -- I'm going to remark this
25 one as 8 because I didn't use my other 8. So this isn't

1 going to be 9. The one we just referenced will be 8
2 because I took 8 out. I don't need it, it's a duplicate.
3 And I'll make a 9 so that I don't forget.

4 This, I believe, was also a portion of your --
5 it may have been a portion of your disclosure. Maybe
6 not. It's listed as Exhibit 23, I think, in another
7 deposition.

8 But tell me what this is, to your knowledge.

9 A I don't know. Looks like some specifications.
10 But that would not have been a Bates stamp I would have
11 put on. I don't --

12 Q Okay.

13 A -- I don't put on Bates stamps like that.

14 Q It just says Exhibit 3 --

15 A Yeah.

16 Q -- but you -- you're not aware of what this --
17 well, it's -- I think we referred to earlier, SMACNA. So
18 maybe it's something that one of your experts provided in
19 the Superior Court case?

20 A Maybe.

21 Q Okay. We'll go ahead and keep it marked as
22 Exhibit 9 even though you're not sure exactly what this
23 is. Might have been in my client's depo even.

24 Let's mark the next set of photos -- three
25 photos -- as Exhibit 10. This looks like maybe some kind

1 of Google Earth or other type image.

2 Have you ever seen those? Does that depict
3 anything that really helps us?

4 A No.

5 Q All right.

6 A Not that I know of.

7 Q No meaning it doesn't depict anything --

8 A Any particular -- it's the -- the home at

9 some --

10 Q Ultra faraway --

11 A -- faraway --

12 Q Yeah.

13 A -- you can see our boat there and...

14 Q Yeah. So this is the home, it just doesn't zoom
15 in and really provide much. I'm going to leave it in
16 there anyway as Exhibit 10.

17 Exhibit 11. I'll show you.

18 Is this also a diagram of the roof plan of the
19 main house?

20 A Yeah. This looks like a -- the Springline plan.
21 And...

22 Q That's just the structure of the roof, not the
23 copper component; correct?

24 A I don't know the structure's layout of the -- it
25 just shows the roof from a plan view.

1 Q And that was from --

2 A It was part of the Springline plans.

3 Q Yeah. Who's Paradigm Construction Services?

4 A That was a company that we consulted with
5 regarding the gatehouse and the garage studio in terms of
6 repairs and things like that.

7 Q All right.

8 A It has nothing to do with this case.

9 Q Well, the only -- I see, main house caulking,
10 remove and replace bad caulking.

11 Do you know what that refers to?

12 A That --

13 Q Is that roof-related?

14 A That would be the gatehouse.

15 Q Okay.

16 A Because it solely was looking at the upper
17 structures.

18 Q Well, it says main house. I see gatehouse
19 there, but it says main house right there.

20 A You know, again, I can't comment on that other
21 than -- I don't know. It says it needs some caulking.

22 Q All right. I'm going to mark it. I understand
23 your testimony regarding it, but I don't want to not know
24 what we were talking about --

25 A Sure.

1 Q -- so I'm going to mark it.

2 A It's your deposition.

3 Q Where do workers lodge when they're doing
4 this -- any kind of work, I guess? Like roofers, for
5 ex- -- instance. If you were to have the roof replaced,
6 what are the lodging options?

7 A Well, our house. There are places. We maintain
8 an apartment -- a one-bedroom apartment where we put
9 witnesses and workers. Those really are the options.

10 Q What do you mean witnesses?

11 A We litigate cases down there --

12 Q Oh, yeah.

13 A -- I have to bring witnesses down.

14 Q Yeah.

15 A We need to find them lodging. We found it
16 easier to maintain an apartment --

17 Q Yeah.

18 A -- for that purpose.

19 Q Yeah. Having seen the invoice for places like
20 The Westin, I -- I get it.

21 A It -- it -- it it's a real challenge.
22 Especially post-COVID.

23 Q Have you had any of the workers on the
24 construction of the home up to this point stay there?

25 A Yes.

1 Q Take a look at what I haven't marked yet, but
2 will mark as Exhibit 13. It has a marking on it that
3 says Photographs Produced by Plaintiffs' Response to
4 Production, Dated -- Virgin Islands Superior Court
5 Case -- lists the number -- March 8, 2014.

6 Who took those photos?

7 A Well, it appears -- these seem to be the same
8 photos that we previously went over that I took.

9 Q Okay.

10 A In addition, there seems to be pictures starting
11 on --

12 Q It looks like there was some additional ones in
13 there, but --

14 A Yeah. These are dealing with the gatehouse
15 issues.

16 Q Okay.

17 A And the garage issue.

18 Q All right. Exhibit 14. Take a look at that,
19 and tell me what that is.

20 A It looks like an e-mail to Chris from
21 Barry Huber.

22 Q Regarding the roof?

23 A Yeah.

24 Q Okay. Dated February 8, 2010?

25 A Yeah. It looks like when he came down and did

1 the measurements.

2 Q Okay. And CE Bunge is who?

3 A Is Chris.

4 Q Okay. Who's Jack Burbach?

5 A I'm not sure.

6 Q He's --

7 A It's not my e-mail.

8 Q -- he's CC'd -- you don't know who that is?

9 No?

10 A No, I don't know who Jack Burbach is.

11 Q Here's -- I'll mark as Exhibit 15. Looks like
12 an e-mail from Barry to you regarding waste or projected
13 waste; is that correct?

14 A Uh-huh, yeah.

15 Q All right.

16 A Yeah, that seems to be what he's addressing.

17 Q Exhibit 16 looks like another e-mail from Barry
18 to Ron Barker; CC Jamin Huber, one of his crew;
19 Jack Burbach, I assume is one of his crew. Talking about
20 the 20-foot storage container and where to put the
21 copper.

22 Is that the gist of that?

23 A Yeah.

24 Q Exhibit 17 looks like an e-mail from Barry to
25 you dated May 22, 2010. Let me know if you agree, and

1 what -- what is the gist of that? More again like
2 storing the copper or some logistics regarding that?

3 A Yeah. I mean, it's hard to read, but -- yeah.

4 Q Whoever this Jack Burbach is, this is an e-mail
5 from him dated June 25, 2010 to Barry and Ron Barker
6 talking about something to do with extra square footage.

7 Do you know what they're referring to there?

8 A I have no idea. I'm not on the e-mail. So...

9 Q Okay. You don't know if that's about the
10 additional square footage for more copper needed?

11 A I'd be speculating. I don't know.

12 Q Okay. Here's one you should know about. A
13 letter from your office to Barry. I think we were -- you
14 were referring to this earlier. Kind of your breakdown
15 of where you were in terms of charges and payments and so
16 forth.

17 A Yes.

18 Q That'll be 19.

19 Exhibit 20 is an -- looks like an e-mail from
20 Barry to you dated August 23, 2010. Read that one and
21 tell me what your understanding of that e-mail is about.

22 My first question being is that after Barry left
23 the job?

24 A Yes. I think that summarizes Barry's sentiment
25 quite well.

1 Q He says, I guess you guys went ahead with the
2 final items you wanted punched out.

3 Did someone -- did Chris performed those punch
4 list items you talked about?

5 A He may have.

6 Q Do you have the punch list?

7 A No, I wouldn't have it.

8 Q Have you -- would Chris have it?

9 A I don't know if it was an actual punch list
10 or -- I -- I don't recall.

11 Q Yeah.

12 A But here's in August. They walked off July 3rd.
13 So we're talking over a month later. And there was no
14 indication that Barry or any of his crew were going to
15 come back to do anything. Other than just threats of
16 litigation.

17 Q That's 20.

18 Before I mark it -- well, I guess I'll mark it.
19 Exhibit 21 looks like cabinets with mold.

20 Is that in another structure?

21 A This is in the gatehouse.

22 Q Okay. I'll keep it marked, but realizing this
23 is not the main house.

24 Did the main house have cabinets like that, that
25 African wood?

1 A No.

2 Q No?

3 Mark this as Composite 22. I'll have you look
4 at this quickly as well. The bottom Bates thing says
5 Gatehouse Cabinet Invoices.

6 So that's not related to the main house;
7 correct?

8 A Correct. And this is example of how we dealt
9 with these people. They would give us bills -- Andy and
10 David. So you asked how we dealt with them earlier.

11 Q I don't remember asking -- you're talking
12 Andy Simpson?

13 A Andy Hardesty.

14 Q Oh, okay. Okay.

15 A They would give us a -- a document, and we'd pay
16 it.

17 Q Let me show you Exhibit 23. It's titled
18 Huber & Associates, all transactions for you and your
19 wife.

20 See if you recognize it.

21 A Well, this is not my document. This is Huber's
22 document.

23 Q I know. Do you -- have you ever seen that
24 before? In the other litigation, perhaps?

25 A You -- you know, I might have when I took his

1 deposition. I haven't looked at it for a number of years.

2 Q Okay. That's Exhibit 23.

3 All right. Twenty-four -- Exhibit 24. Take a
4 look at this.

5 Do you recognize this set of documents?

6 A Yeah. These are Huber's documents.

7 Q Related to expenses or what?

8 A I don't know. I mean, something I think I saw
9 when I took his deposition.

10 Q Exhibit 25, I believe, is the settlement
11 agreement in the Superior Court case.

12 But take a look at that, see if you agree.

13 A Do you have a copy with your client's signature?

14 Q I don't know. That's the copy I have.

15 A Okay. I believe your client had insisted on
16 confidentiality. So --

17 MS. BUNGE: That shouldn't be in the record.

18 A -- it shouldn't be in the record.

19 Q Well, I will keep this document separate. I'm
20 not going to have it attached to the deposition.

21 But this is the settlement agreement; correct?

22 A Yes.

23 Q And it could be an issue in this case, which may
24 take it outside of the confidentiality order. Not for
25 all the public, but for at least our case. We'll see.

1 But certainly what you agreed to release could be an
2 issue. So I'll -- I'll maintain that exhibit. If you --
3 I'm sure you have a copy, but if you need a copy of the
4 one I have, I'm happy to provide it. He probably already
5 provided it.

6 A I would like one with your client's signature.

7 Q What's that?

8 A I would like one with your client's signature.

9 Q I -- I don't -- I don't know that -- this is the
10 only one that I'm aware of that I have. So...

11 A I never received a signed copy back from Joe.

12 Q Okay. Well, as you know, I wasn't part of that.
13 But...

14 A I understand.

15 Q What was that 25?

16 So 26. I think this is the current action for
17 damages/complaint that we're traveling under in the
18 Federal District Court case; correct?

19 A Yes, it appears to be.

20 Q All right. We've got that as 26.

21 This last set of documents is listed as a
22 composite, and I think it's continuous 1 through 86.
23 It -- it's titled Photographs from Hoffmann Deposition.

24 Take a look at that, and see if you recognize
25 those documents -- or those photos?

1 A Yeah. I mean, they appear to be photos of
2 different portions of our house and the residents --
3 iguanas.

4 Q Do you charge them rent?

5 A When we built we were hoping to see iguanas on
6 our property. Be careful what you wish for.

7 Q Yeah. Florida Keys has a run of those as well.

8 All right. Let me just look over my notes.

9 It's four o'clock magically, and we may be finished here.

10 What is -- is there anyone currently that's
11 planned to visit the roof, inspect the roof?

12 A I don't know. I don't -- as we sit here
13 today --

14 Q Nothing is scheduled right now?

15 A -- nothing scheduled.

16 Q Are there any photographs that exist regarding
17 the main building roof -- main residence roof in addition
18 to those that we've gone over?

19 A I -- I mean, I suspect --

20 Q That you have custody or control of?

21 A I -- I mean, I suspect there's a number of
22 photographs during the construction. You know? But I
23 think that we've produced the ones that at least we have
24 that were taken during the work done by your client.

25 Q Are there any lawsuits or claims related to the

1 property that we haven't discussed?

2 A You mean this particular property?

3 Q Yeah. The Chocolate Hole property.

4 A I don't know if it's still pending or not, but
5 my neighbor up the hill claims that our gatepost
6 encroaches on his property. And our position is that the
7 driveway has been in existence since the '50s, and so it
8 is what it is. But that case -- I don't know if -- what's
9 happened with it. It's in the Superior Court. Cases just
10 kind of don't move.

11 Q The release from the homeowners insurer, did
12 that include any damage to the main roof?

13 A I don't know.

14 Q What inspections occur for a Virgin Islands
15 property or St. John's property? Are there any --

16 A Can you be more specific?

17 Q Yeah. You built this home. What -- what was
18 required -- did they come in and inspect anything or is
19 it just --

20 A The --

21 Q -- you build your property --

22 A No.

23 Q -- build your house and so be it?

24 A No.

25 Q Talking about agencies. Like if you built a

1 house here --

2 A Yeah. You -- you need to get a permit, and then
3 there needs to be inspections. And that all has to take
4 place. I mean, things have changed a bit in terms of the
5 stringency. But, again, we haven't been in the process of
6 needing inspections.

7 Q Right.

8 A I understand now a lot of them could be called
9 in.

10 Q Right.

11 A When we were building, they had to go out there
12 and actually physically inspect.

13 Q Did any of the components of the building fail
14 inspection?

15 A No. Not that I'm aware of.

16 Q And I don't mean roof. I mean anything
17 whatsoever.

18 A No. No, not that I'm aware of.

19 Q Are there any persons other than names we've
20 already discussed that have any knowledge of your damages
21 claims?

22 A Not that I'm aware of.

23 Q Okay. Let me just look over my notes some more.
24 Was a replacement of the main house roof any
25 part of the claim in the Superior Court?

1 A No.

2 Q Was there any discussion of failure to have
3 cleats in the Superior Court case?

4 A No.

5 Q Was it ever suspected during that first case
6 that cleats may not have existed?

7 A No.

8 Q Or may not have been spaced correctly?

9 A No.

10 Q So none of that was discussed in the depo taken
11 of your expert?

12 A Yeah, there -- there was some issue that we
13 talked about on the west side. We looked at it, and I
14 think those were some of the photos in the exhibits. They
15 weren't 9.5 inches on center, but they were there.

16 Q Yeah.

17 A And he marked whatever dimensions there were.
18 And I think that was the extent of it.

19 Q Some of them were 9, some less than 9, and one
20 over 9?

21 A He wrote down on the photo. He annotated.

22 Q Yeah.

23 A So it is what it is.

24 Q Other than Chris has any -- Chris and his crew
25 has anyone else performed any work on the roof since

1 Irma?

2 A Well, the Dahill folks.

3 Q Other than that?

4 A No.

5 Q Was there any cable TV or cables that involve
6 the roof of the main house?

7 A No.

8 Q Cabling?

9 A No.

10 MR. COSBY: That's all the questions I have.

11 MR. FRIEDBERG: Thank you.

12 MR. COSBY: If there's anything you want to
13 question yourself about...

14 MR. FRIEDBERG: No.

15 MR. COSBY: But if not --

16 MR. FRIEDBERG: No.

17 MR. COSBY: -- read or waive?

18 MR. FRIEDBERG: Yeah. I'll read and review.
19 And I'll take a -- a copy sent to me with a full
20 suite, exhibits and everything.

21 THE COURT REPORTER: All right. And for you
22 also, sir?

23 MR. COSBY: I'm ordering the deposition, yes.

24 (Deposition concluded at 4:07 p.m.)

25

CERTIFICATE OF REPORTER

STATE OF ARIZONA)
) ss:
COUNTY OF PIMA)

I, Gina Castro, a Certified Shorthand Reporter for the State of Arizona and Registered Professional Reporter, do hereby certify that the foregoing deposition was taken before me in the County of Pima, State of Arizona; that an oath or affirmation was duly administered by me to the witness, THOMAS F. FRIEDBERG, pursuant to A.R.S. 41-324(B); that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to typewriting; that the transcript is a full, true, and accurate record of the proceeding, all done to the best of my skill and ability; that the preparation, production, and distribution of the transcript and copies of the transcript comply with the Arizona Revised Statutes and ACJA 7-206(J)(1)(g)(1) and (2).

The witness herein, THOMAS F. FRIEDBERG, reserved right to review and signature.

I FURTHER CERTIFY that I am in no way related to any of the parties nor am I in any way interested in the outcome hereof.

IN WITNESS THEREOF, I have set my hand in my office in the County of Pima, State of Arizona, this 9th day of April 2025.

Gina Castro

Gina Castro, CSR, RPR
Arizona Certificate No. 50989

I certify that Veritext Corporation has complied with the ethical obligations set forth in ACJA 7-206(J)(1)(g)(1) through (6).

Veritext Corporation, RRF No. R1061

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1 Thomas F Friedberg
2 tom@lawofficefb.com

3 April 9th, 2025

4 RE: Friedberg, Thomas F. v. Daybreak, Inc.
3/17/2025, Thomas Friedberg (#7235554)

5
6 The above-referenced transcript is available for
7 review.

8 Thomas Friedberg should read the testimony to
9 verify its accuracy. If there are any changes,
10 Thomas Friedberg should note those with the reason
11 on the attached Errata Sheet.

12 Thomas Friedberg should, please, date and sign the
13 Errata Sheet and email to the deposing attorney as well as
14 to Veritext at Transcripts-fl@veritext.com and copies will
15 be emailed to all ordering parties.

16 It is suggested that the completed errata be returned 30
17 days from receipt of testimony, as considered reasonable
18 under Federal rules*, however, there is no Florida statute
19 to this regard.

20 If the witness fails to do so, the transcript may be used
21 as if signed.

22 Yours,
23 Veritext Legal Solutions

24
25 *Federal Civil Procedure Rule 30(e)/Florida Civil Procedure
Rule 1.310(e).

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Friedberg, Thomas F. v. Daybreak, Inc.

3/17/2025, Thomas Friedberg (#7235554)

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REASON_____

Under penalties of perjury, I declare that I have
read the foregoing document and that the facts
stated in it are true.

(Thomas Friedberg)

DATE

[& - 2025]

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FLORIDA RULES OF CIVIL PROCEDURE

Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

the deposition wholly or partly, on motion under
rule 1.330(d)(4).

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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